



LISA M. GARRETT
DIRECTOR OF PERSONNEL

COUNTY OF LOS ANGELES DEPARTMENT OF HUMAN RESOURCES

HEADQUARTERS
579 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-2406 FAX (213) 621-0387

BRANCH OFFICE
3333 WILSHIRE BOULEVARD • LOS ANGELES, CALIFORNIA 90010
(213) 738-2222 FAX (213) 637-0820

April 12, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

20 April 12, 2016

LORI GLASGOW
EXECUTIVE OFFICER

APPROVAL OF SOLE SOURCE AGREEMENT WITH SABA SOFTWARE, INC. (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

**CIO RECOMMENDATION: APPROVE (X) APPROVE WITH MODIFICATION ()
DISAPPROVE ()**

SUBJECT

The Los Angeles County (County) Department of Human Resources (DHR) is requesting the Board's approval and delegated authority to execute a contract (Contract) with Saba Software, Inc. (Saba) for upgrading the enterprise Learning Management System (LMS) software and related optional work.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and instruct the Director of Personnel, or her designee, to execute a Contract substantially similar to the attached (Attachment II) with Saba for a term commencing upon such execution and continuing for the initial term of three (3) years, with an option to extend for two (2) additional one-year periods, and a maximum Contract sum of \$308,424 for the entire term of the Contract, including \$51,404 in contingency fund dollars allocated for optional work requested by County.
2. Delegate authority to the Director of Personnel, or her designee, to execute Change Notices and Amendments or otherwise modify the Contract in order to: (1) add and/or update standard County contract provisions as required by the Board or the County's Chief Executive Office (CEO); (2) exercise the term extension options; (3) effectuate an assignment of rights and/or delegation of

duties pursuant to the Assignment and Delegation provision under the Contract; and (4) acquire goods and/or services related to LMS in the form of optional work by Change Notice using contingency fund dollars allocated for the term of the Contract.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Under the proposed Contract, Saba will provide the County with professional services to upgrade the LMS to the most current software version. The LMS utilized by the County is Saba's proprietary software. It is a web-based platform that distributes online learning, assesses job knowledge and skills, and tracks compliance of developmental and mandatory training (e.g., Sexual Harassment Prevention, Health Insurance Portability and Accountability Act, Computer Security Awareness and Disaster Service Worker). The LMS was implemented in October 2006 and last upgraded in November 2009. The LMS software version currently used by the County has reached the end of support provided by Saba and now faces issues that can only be resolved by upgrading to a newer version.

By upgrading to the current version of the LMS software, the County will be able to eliminate such LMS issues as inaccurate recording of training completions, network interruptions and system crashes that may require that students completely restart an online course, and lack of simple search functionality resulting in the need to perform multiple steps over two screens to perform a search. Furthermore, the upgraded LMS software will provide a number of additional benefits/functionalities, including:

- Enhanced user interface that features simplified course searches, better compliance dashboards, and one-click registration and launch of online courseware;
- Expanded reporting tools;
- Ability to integrate with free learning resources (e.g., Khan Academy);
- Compatibility with the latest versions of common Internet browsers (i.e., Internet Explorer, Google Chrome, Mozilla FireFox and Apple Safari);
- Improved accuracy in online learning transcript recording;
- Greater system stability and improved performance;
- Integration with the Microsoft Outlook Calendar function to display upcoming enrollments;
- Improved licensing and certification tracking with alerts to learners and other designated individuals when expiration dates are approaching or achieved;
- Enhanced tracking of continuing education units to support professional certification and licensing maintenance; and
- Ability to use content developed for mobile devices, including those using Android and iOS operating systems.

By utilizing Saba for the implementation of the upgraded LMS software proprietary to Saba, it is anticipated that the upgrade process will be streamlined and cost-effective due to Saba's expert knowledge of the LMS software and its previous experience with the County's LMS and information technology environment. Saba will upgrade the system on-site and behind the County firewall established and maintained by the Internal Services Department (ISD). There will be no exchange of data between the County and Saba, and all uploading of current data in LMS to the new software version will be conducted behind the County's firewall.

License costs for the upgraded software are not included in this Contract, as the County purchased an enterprise perpetual license under a separate license agreement with Saba in December 2005.

The enterprise perpetual license remains in effect for the new upgraded LMS software with County remaining current on software maintenance and support. Services obtained under this Contract are limited to those required to conduct the software upgrade implementation and provision of any optional work, including professional services that may be requested by County, using contingency fund dollars allocated for the term of the Contract.

Implementation of Strategic Plan Goals

The recommended action supports the County's Strategic Plan Goal Number 1, Operational Effectiveness, which is to maximize the effectiveness of processes, structure, and operations to support timely delivery of customer-oriented and efficient public services.

FISCAL IMPACT/FINANCING

The maximum Contract sum for the term of the Contract of \$308,424 is included in the DHR Fiscal Year (FY) 2015-16 Adopted Budget and consists of:

- A total of \$257,020 for professional services for the LMS software upgrade, which will be paid based on deliverables in accordance with the amounts specified in the Contract following County's written acceptance of each such deliverable, with each deliverable payment representing no more than 20% of the total cost of the upgrade; and
- An allocation of contingency fund dollars in the amount of \$51,404, representing 20% of the total cost of professional services for LMS software upgrade, to be used for procurement of additional professional services, maintenance or other optional work that may be requested by County, including unforeseen emergencies or the need to fulfill future service or maintenance requirements.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The proposed Contract for Saba's LMS software upgrade and related optional work is recommended on a sole source basis, with Saba being the most qualified company to provide the work given Saba's prior experience with County's LMS and that the software is proprietary product of Saba.

Saba is scheduled to provide the LMS software upgrade services acquired under this Contract over the next five (5) months, during which time Saba will continue to provide maintenance and support for the current version of its LMS software pursuant to a current software maintenance agreement under a purchase order.

This Contract with Saba will become effective upon execution and will continue for the initial term of three (3) years, with two (2) optional one-year extensions, for a total maximum term of five (5) years.

The Contract contains all the latest Board mandated provisions, including time off for voting, consideration of qualified County employees targeted for layoffs and GAIN/GROW participants for employment openings, and compliance with Jury Service Ordinance, Safely Surrendered Baby Law and the Child Support Program. In addition, Saba is required to notify the County when its payments have reached seventy-five percent (75%) of the authorized maximum Contract sum.

The Contract also contains provisions applicable to information technology agreements, including technology errors and omissions as well as privacy and network security (Cyber) insurance

coverages, intellectual property indemnification and liquidated damages for delayed performance.

As a result of the negotiations, taking into consideration the services provided under this Contract and the fact that at no time will any County data or systems leave County premises or be exposed beyond the County established firewall and infrastructure managed by ISD, the standard \$15 million aggregate per occurrence for privacy and network security (Cyber) liability insurance, which includes coverage for Contractor's liability arising from a security incident, was reduced to \$10 million aggregate per occurrence. Furthermore, the indemnification obligations were modified so that Contractor will indemnify County only for liability arising from or connected with, at a minimum, Contractor's negligent acts and/or omissions arising from and/or related to the Contract. With the exception of intellectual property indemnification and above indemnity provisions, neither party will be liable to the other for any type of special, incidental, punitive, indirect or consequential damages, nor will either party's liability exceed two (2) times the Contract sum allocated for the term of the Contract. All these deviations from the County's standard provisions were agreed to in consultation and concurrence with the CEO Risk Management Branch (CEO RMB).

The Chief Information Office (CIO) has reviewed and approved this Contract; the CIO Analysis is provided with this Board letter (Attachment I). The CEO RMB has reviewed and concurs with the provisions related to insurance and indemnification. County Counsel has reviewed and approves this Contract as to form.

CONTRACTING PROCESS

In February 2004, ISD issued a Request for Proposals for an enterprise eLearning suite software package based on Countywide requirements. An agreement was executed with the selected vendor, THINQ, in June 2004 for 5,000 licenses and related services to implement a pilot for Public Health programs. Funding for the pilot implementation came from a federal grant.

In May 2005, Saba acquired THINQ and indicated that its highly rated software, Saba Learning, would be the surviving product from the merger. Saba offered to provide the County with its flagship software, which became the LMS software, and agreed to honor the discounted pricing, terms and conditions in the THINQ agreement. The Board approved additional funding in December 2005 to purchase an enterprise license and implementation services to implement the LMS Countywide. The Countywide implementation was completed in October 2006.

In May 2009, the Board approved funding for professional services to upgrade the LMS software from Saba Learning version 5.3 to 5.4. The upgrade was completed in November 2009.

DHR advised the Board on October 14, 2015 of its intent to negotiate a Sole Source Contract with Saba (Attachment III), and a Sole Source Checklist is included with this Board letter (Attachment IV) in accordance with Board Policy No. 5.100, Sole Source Contracts.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no impact on current LMS services during the software upgrade; the enhanced LMS functionality will become available after the LMS software upgrade has been completed.

CONCLUSION

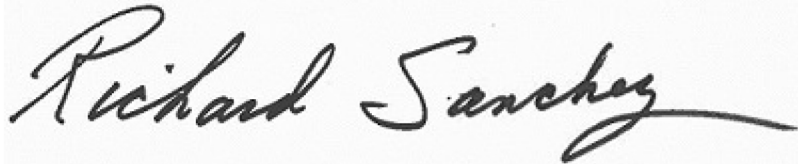
Upon approval by your Board, please return two (2) adopted copies of this Board letter to the Department of Human Resources, Contracts Division, attention Darolyn Jensen, Contracts Manager.

Respectfully submitted,



LISA M. GARRETT
Director of Personnel

Reviewed by:



RICHARD SANCHEZ
Chief Information Officer

dsk

Enclosures

c: Chief Executive Officer
Executive Officer, Board of Supervisors
County Counsel



RICHARD SANCHEZ
CHIEF INFORMATION OFFICER

Office of the CIO
CIO Analysis

NUMBER:

CA16-06

DATE:

3/22/2016

SUBJECT:

**APPROVAL OF SOLE SOURCE CONTRACT
WITH SABA SOFTWARE, INC.**

RECOMMENDATION:

☒ Approve☐ Approve with Modification☐ Disapprove

CONTRACT TYPE:

☒ New Contract☒ Sole Source☐ Amendment to Contract #:☐ Other: Describe contract type.

CONTRACT COMPONENTS:

☐ Software☐ Hardware☐ Telecommunications☒ Professional Services

SUMMARY:

Department Executive Sponsor: Lisa Garrett, Director, Department of Human Resources

Description: Department of Human Resources (DHR) is requesting delegated authority, after concurrence from County Counsel, to execute a Sole Source Contract with Saba Software, Inc. (Saba) for professional services to upgrade/enhance the enterprise Learning Management System (LMS) and optional additional work as described in the Contract. The Contract term is three years with two subsequent one-year automatic extended terms through March 31, 2021, with a Contract Sum of \$308,424, which includes \$51,404 in pool dollars.

Contract Amount: \$308,424

Funding Source: DHR 2015-16 Budget

☐ Legislative or Regulatory Mandate☐ Subvened/Grant Funded: Enter %

**Strategic and
Business Analysis**

PROJECT GOALS AND OBJECTIVES:

This proposed Contract will acquire Saba consulting services to support an upgrade of the County's current LMS to the latest version of the Saba application software. This upgrade will: 1) address immediate technical, operation, and maintenance and support issues; and 2) enable the County to take advantage of new application functionality, including improved reporting, integration with online content providers, and mobile learning support.

BUSINESS DRIVERS:

In October 2006, the County implemented Saba Learning, referred to as the Enterprise LMS, as part of a comprehensive workforce development program to provide tools to track and deploy online and classroom training, assess employee job knowledge and skills, prepare employees for current and future positions, and manage mandatory compliance training.

The County last upgraded LMS in November 2009, and the system version the County uses is no longer technically supported by vendor. The primary business driver for this proposed Contract is to address immediate technical, operation, and maintenance and support issues that can only be resolved by upgrading to newer release of the application software. In addition, the new application software version will streamline system administration and provide enhancements to online learning capabilities.

DHR notified the Board of its intent to negotiate this Sole Source Contract in a memorandum dated October 14, 2015.

PROJECT ORGANIZATION:

The Contract is managed by DHR's Information Technology (IT) organization under the direction of Murtaza Masood, Chief Information Officer, DHR.

PERFORMANCE METRICS:

The Contract identifies specific vendor tasks and deliverables and remedies for non-compliance.

STRATEGIC AND BUSINESS ALIGNMENT:

The Contract supports the County's Strategic Plan Goal 1 – Organizational Effectiveness.

PROJECT APPROACH:

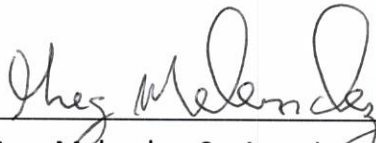

This Contract acquires professional services to upgrade the County LMS to the latest version of application software. Also, it includes an allocation for optional work during the contract term.

ALTERNATIVES ANALYZED:

DHR explored no other alternatives. Saba's expert knowledge of the application software, coupled with their previous experience on the current County installation, is expected to minimize risks and lead to a streamlined, cost-effective County LMS upgrade. This upgrade will address immediate issues with the current LMS, which are hampering system support and use of the application by County departments.

DHR is developing a strategy to solicit and acquire integrated talent suite, which is intended to be a long-term solution to meet the County's learning, performance, and success management requirements.

| | | | | | | | | | | | | | | | | | |
|----------------------------------|--|----------------|---------------|----------------|--------------|----------------------------------|-------------------|----------------------------|---------------|--------------------------------|-------------------|--------------------|---------------|--------------------|---------------|-----------------------------|--------------|
| Technical Analysis | <p>ANALYSIS OF PROPOSED IT SOLUTION:</p> <p>The current LMS is hosted at ISD's Downey Data Center and has been in production for 10 years, with the last upgrade in November 2009 to Saba Enterprise 5.4.3. It runs on Windows 2003 Server and IBM AIX 5.3, and uses an Oracle 10g R2 database. The upgraded LMS software version will be Saba Enterprise 7.3.1. The system configuration will utilize Red Hat Enterprise Linux 7 and IBM AIX 7.1, and an Oracle 12c R1 database.</p> <p>The project will utilize a migration approach that implements a new, clean installation of the most recent version of the Saba application software, migrates existing data from the existing LMS, and will perform production cutover to the new, upgraded LMS after successful user acceptance testing.</p> | | | | | | | | | | | | | | | | |
| Financial Analysis | <p>BUDGET:</p> <p>One-time costs:</p> <p>Contract costs:</p> <table> <tr> <td>Services</td><td>\$ 257,020(1)</td></tr> <tr> <td>Software</td><td>\$ 51,404(2)</td></tr> <tr> <td>Sub-total Contract Costs:</td><td>\$ 308,424</td></tr> </table> <p>County costs:</p> <table> <tr> <td>Third Party Software</td><td>\$ 212,588(3)</td></tr> <tr> <td>Sub-total County Costs:</td><td>\$ 212,588</td></tr> </table> <p>Total One-Time Costs: \$ 521,012</p> <p>Ongoing annual costs:</p> <table> <tr> <td>ISD Services</td><td>\$ 564,312(4)</td></tr> <tr> <td>Software M&S</td><td>\$ 226,366(5)</td></tr> <tr> <td>Third Party Software M&S...</td><td>\$ 42,509(6)</td></tr> </table> <p>Total Ongoing Costs: \$ 833,187</p> <p>Notes:</p> <p>(1) Services performed for tasks and deliverables identified in the Contract Statement of Work.</p> <p>(2) Contract Pool Dollars for optional work during the term of the Contract performing at a fixed hourly rate.</p> <p>(3) Oracle 12c Enterprise Edition License – 4 Cores.</p> <p>(4) ISD hosting costs for LMS production environment consisting of 10 Linux servers.</p> <p>(5) Annual Saba Maintenance and Support (M&S) fee entitles the County to receive software updates and enhancements, as well as access to Saba Customer Support and Services.</p> <p>(6) Oracle Enterprise Maintenance and Support (M&S) fee entitles the County to receive software updates and enhancements, as well as access to Oracle Customer Support and Services.</p> | Services | \$ 257,020(1) | Software | \$ 51,404(2) | Sub-total Contract Costs: | \$ 308,424 | Third Party Software | \$ 212,588(3) | Sub-total County Costs: | \$ 212,588 | ISD Services | \$ 564,312(4) | Software M&S | \$ 226,366(5) | Third Party Software M&S... | \$ 42,509(6) |
| Services | \$ 257,020(1) | | | | | | | | | | | | | | | | |
| Software | \$ 51,404(2) | | | | | | | | | | | | | | | | |
| Sub-total Contract Costs: | \$ 308,424 | | | | | | | | | | | | | | | | |
| Third Party Software | \$ 212,588(3) | | | | | | | | | | | | | | | | |
| Sub-total County Costs: | \$ 212,588 | | | | | | | | | | | | | | | | |
| ISD Services | \$ 564,312(4) | | | | | | | | | | | | | | | | |
| Software M&S | \$ 226,366(5) | | | | | | | | | | | | | | | | |
| Third Party Software M&S... | \$ 42,509(6) | | | | | | | | | | | | | | | | |

| | |
|----------------------|---|
| Risk Analysis | <p>RISK MITIGATION:</p> <ol style="list-style-type: none"> 1. The vendor's knowledge of County's current LMS and their application software is expected to streamline the project and effect a successful system upgrade. 2. DHR has worked with vendor to identify County LMS issues to ensure that they will be resolved by the system upgrade. 3. DHR has elected to utilize a migration approach versus an in-place upgrade to reduce the technical complexities of upgrading two major versions of the Saba application software. 4. The Chief Information Security Officer reviewed the Contract and did not identify any IT security or privacy related issues. |
| CIO Approval | <p>PREPARED BY:</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  <hr/> Greg Melendez, Sr. Associate CIO </div> <div style="text-align: right;"> 3/31/2016 <hr/> Date </div> </div> <p>APPROVED:</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  <hr/> Richard Sanchez, County Chief Information Officer </div> <div style="text-align: right;"> 3-30-16 <hr/> Date </div> </div> |

Please contact the Office of the CIO 213.253.5600 or info@cio.lacounty.gov for questions concerning this CIO Analysis. This document is also available online at <http://ciointranet.lacounty.gov/>



**CONTRACT
BY AND BETWEEN
THE COUNTY OF LOS ANGELES
AND
SABA SOFTWARE, INC.
FOR
COUNTY LEARNING MANAGEMENT SYSTEM (LMS)
UPGRADE AND SERVICES**

MARCH 2016

TABLE OF CONTENTS

| <u>PARAGRAPH</u> | <u>PAGE</u> |
|---|--------------------|
| 1. INTERPRETATION | 1 |
| 1.1 APPLICABLE DOCUMENTS | 1 |
| 1.2 ENTIRE CONTRACT..... | 2 |
| 1.3 DEFINITIONS..... | 2 |
| 2. WORK..... | 8 |
| 2.1 SCOPE OF WORK | 8 |
| 2.2 APPROVAL OF WORK | 8 |
| 2.3 STANDARD OF SERVICES | 8 |
| 2.4 OPTIONAL WORK | 8 |
| 2.5 UNAPPROVED WORK..... | 9 |
| 3. TERM OF CONTRACT | 9 |
| 4. CONTRACT SUM..... | 9 |
| 4.1 MAXIMUM CONTRACT SUM | 9 |
| 4.2 NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION / TERMINATION / SUSPENSION OF CONTRACT | 10 |
| 4.3 INVOICES AND PAYMENTS | 10 |
| 5. ADMINISTRATION OF CONTRACT – COUNTY | 11 |
| 5.1 COUNTY’S ADMINISTRATION | 11 |
| 5.2 COUNTY’S PROJECT MANAGER..... | 12 |
| 6. ADMINISTRATION OF CONTRACT - CONTRACTOR | 12 |
| 6.1 CONTRACTOR’S ADMINISTRATION | 12 |
| 6.2 CONTRACTOR’S PROJECT MANAGER..... | 12 |
| 6.3 APPROVAL OF CONTRACTOR’S STAFF | 12 |
| 6.4 BACKGROUND AND SECURITY INVESTIGATIONS | 12 |

| | | |
|------|--|----|
| 6.5 | RULES AND REGULATIONS | 13 |
| 6.6 | CONTRACTOR’S STAFF IDENTIFICATION..... | 13 |
| 7. | CHANGE NOTICES AND AMENDMENTS | 14 |
| 7.1 | GENERAL | 14 |
| 7.2 | CHANGE NOTICES | 14 |
| 7.3 | AMENDMENTS | 14 |
| 7.4 | BOARD ORDERS | 14 |
| 7.5 | PROJECT SCHEDULE | 14 |
| 8. | ASSIGNMENT AND DELEGATION | 14 |
| 9. | APPROPRIATION OF FUNDS | 15 |
| 9.1 | BUDGET REDUCTIONS | 15 |
| 9.2 | NON-APPROPRIATION OF FUNDS | 15 |
| 10. | AUTHORIZATION WARRANTY..... | 16 |
| 11. | COMPLAINTS | 16 |
| 12. | COMPLIANCE WITH APPLICABLE LAWS..... | 16 |
| 13. | COMPLIANCE WITH CIVIL RIGHTS LAWS..... | 17 |
| 14. | COMPLIANCE WITH COUNTY’S JURY SERVICE PROGRAM..... | 17 |
| 14.1 | JURY SERVICE PROGRAM | 17 |
| 14.2 | WRITTEN EMPLOYEE JURY SERVICE POLICY | 17 |
| 15. | CONFIDENTIALITY AND SECURITY..... | 18 |
| 15.1 | CONFIDENTIAL INFORMATION..... | 18 |
| 15.2 | DISCLOSURE OF INFORMATION..... | 19 |
| 15.3 | SECURITY | 19 |
| 15.4 | DATA DESTRUCTION | 19 |
| 16. | CONFLICT OF INTEREST | 20 |

| | | |
|------|---|----|
| 17. | CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST | 20 |
| 18. | CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS | 20 |
| 19. | CONTRACTOR RESPONSIBILITY AND DEBARMENT | 21 |
| 19.1 | RESPONSIBLE CONTRACTOR..... | 21 |
| 19.2 | CHAPTER 2.202 OF THE COUNTY CODE..... | 21 |
| 19.3 | NON-RESPONSIBLE CONTRACTOR..... | 21 |
| 19.4 | CONTRACTOR HEARING BOARD..... | 21 |
| 19.5 | SUBCONTRACTORS OF CONTRACTOR | 22 |
| 20. | CONTRACTOR’S ACKNOWLEDGEMENT OF COUNTY’S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW | 22 |
| 21. | CONTRACTOR’S WARRANTY OF ADHERENCE TO COUNTY’S CHILD SUPPORT COMPLIANCE PROGRAM | 22 |
| 22. | CONTRACTOR’S WARRANTY OF COMPLIANCE WITH COUNTY’S DEFAULTED PROPERTY TAX REDUCTION PROGRAM..... | 23 |
| 23. | COUNTY’S QUALITY ASSURANCE PLAN..... | 23 |
| 24. | DAMAGE TO COUNTY FACILITIES, BUILDINGS AND GROUNDS | 23 |
| 25. | DISPUTE RESOLUTION PROCEDURE | 23 |
| 26. | EMPLOYMENT ELIGIBILITY VERIFICATION | 24 |
| 27. | FACSIMILE REPRESENTATIONS..... | 24 |
| 28. | FAIR LABOR STANDARDS | 25 |
| 29. | FORCE MAJEURE | 25 |
| 30. | GOVERNING LAW, JURISDICTION AND VENUE..... | 25 |
| 31. | INDEPENDENT CONTRACTOR STATUS | 25 |
| 32. | INDEMNIFICATION..... | 26 |
| 33. | INSURANCE..... | 26 |
| 33.1 | GENERAL | 26 |

| | | |
|------|---|----|
| 33.2 | EVIDENCE OF COVERAGE AND NOTICE TO COUNTY | 26 |
| 33.3 | INSURANCE REQUIREMENTS..... | 27 |
| 33.4 | CANCELLATION OF OR CHANGES IN INSURANCE | 29 |
| 33.5 | FAILURE TO MAINTAIN INSURANCE | 29 |
| 33.6 | INSURANCE COVERAGE REQUIREMENTS | 29 |
| 34. | INTELLECTUAL PROPERTY INDEMNIFICATION..... | 30 |
| 35. | LICENSES, PERMITS, REGISTRATIONS AND CERTIFICATES | 31 |
| 36. | LIQUIDATED DAMAGES..... | 31 |
| 37. | MOST FAVORED PUBLIC ENTITY | 32 |
| 38. | NONDISCRIMINATION AND EQUAL EMPLOYMENT..... | 32 |
| 39. | NON-EXCLUSIVITY | 33 |
| 40. | NOTICE OF DELAYS | 33 |
| 41. | NOTICE OF DISPUTES | 33 |
| 42. | NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT | 33 |
| 43. | NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW..... | 34 |
| 44. | NOTICES | 34 |
| 45. | PROHIBITION AGAINST INDUCEMENT AND PERSUASION..... | 34 |
| 46. | PROPRIETARY CONSIDERATIONS..... | 34 |
| 46.1 | COUNTY MATERIALS | 34 |
| 46.2 | SOFTWARE LICENSE | 35 |
| 46.3 | PROPRIETARY AND CONFIDENTIAL INFORMATION | 35 |
| 46.4 | SURVIVAL | 35 |
| 47. | PUBLIC RECORDS ACT | 35 |
| 48. | PUBLICITY | 36 |

| | | |
|------|--|----|
| 49. | RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT | 36 |
| 50. | RECYCLED BOND PAPER | 37 |
| 51. | SUBCONTRACTING | 37 |
| 52. | TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY’S CHILD SUPPORT COMPLIANCE PROGRAM..... | 38 |
| 53. | TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY’S DEFAULTED PROPERTY TAX PROGRAM | 38 |
| 54. | TERMINATION FOR CONVENIENCE..... | 38 |
| 55. | TERMINATION FOR DEFAULT | 38 |
| 56. | TERMINATION FOR IMPROPER CONSIDERATION..... | 39 |
| 57. | TERMINATION FOR INSOLVENCY | 39 |
| 58. | TERMINATION FOR NON-ADHERENCE TO COUNTY LOBBYIST ORDINANCE | 40 |
| 59. | EFFECT OF TERMINATION | 40 |
| 60. | TIME OFF FOR VOTING..... | 40 |
| 61. | VALIDITY | 41 |
| 62. | WAIVER..... | 41 |
| 63. | WARRANTIES..... | 41 |
| 63.1 | WARRANTY AND THE WARRANTY PERIOD..... | 41 |
| 63.2 | FURTHER WARRANTIES..... | 41 |
| 63.3 | WARRANTY PASS-THROUGH..... | 42 |
| 63.4 | WARRANTY AGAINST CONTINGENT FEES | 42 |
| 63.5 | BREACH OF WARRANTY OBLIGATIONS | 42 |
| 64. | SURVIVAL..... | 42 |

EXHIBITS

| | |
|-----------|--|
| EXHIBIT A | Statement of Work |
| | ATTACHMENT A.1 System Requirements |
| | ATTACHMENT A.2 System Configuration |
| EXHIBIT B | Pricing Schedule |
| | SCHEDULE B.1 Optional Work [TBD] |
| EXHIBIT C | Project Schedule [TBD] |
| EXHIBIT D | Contractor's EEO Certification |
| EXHIBIT E | County's Administration |
| EXHIBIT F | Contractor's Administration |
| EXHIBIT G | Acknowledgment, Confidentiality and Assignment Agreement |
| EXHIBIT H | Jury Service Ordinance |
| EXHIBIT I | Safely Surrendered Baby Law |
| EXHIBIT J | Defaulted Property Tax Reduction Program Ordinance |

**CONTRACT
BETWEEN
COUNTY OF LOS ANGELES
AND
SABA SOFTWARE, INC.
FOR
COUNTY LEARNING MANAGEMENT SYSTEM (LMS)
UPGRADE AND SERVICES**

This Contract, including all Exhibits and Attachments, is made and entered into this ____ day of _____, 2016 by and between the County of Los Angeles (hereinafter “County”) on behalf of the Department of Human Resources (hereinafter “Department” or “DHR”) and Saba Software, Inc. (hereinafter “Contractor”), located at 2400 Bridge Parkway, Redwood Shores, California 94065-1166.

RECITALS

WHEREAS, County may contract with private businesses for information technology services (hereinafter also “Services”) relating to the County Learning Management System (LMS) Upgrade and Services when certain requirements are met; and

WHEREAS, Contractor possesses the necessary skills, qualifications, competence, license and expertise and, therefore, is qualified to perform such Services; and

WHEREAS, County does not have the requisite technical staff with the specific skills and expertise necessary to perform the Services; and

WHEREAS, County is authorized by the California Government Code, Section 31000 to contract for special services, including the Services described herein; and

WHEREAS, this Contract is further authorized under Section 44.7 of the Los Angeles County Charter and Los Angeles County Codes Section 2.121.250; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and for good and valuable consideration, the parties agree as follows:

1. INTERPRETATION

1.1 APPLICABLE DOCUMENTS

The body of this document (hereinafter “Base Contract”), including without limitation the Recitals hereto along Exhibits A, B, C, D, E, F, G, H, I and J and all Attachments and Schedules thereto, attached hereto are all incorporated herein by reference and collectively form and throughout and hereinafter are referred to as the “Contract”. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service or other work, or otherwise between this Base Contract and the Exhibits, Attachments or Schedules thereto, or among Exhibits, Attachments and Schedules, such conflict or inconsistency shall be resolved by giving

precedence first to this Base Contract and then to the Exhibits, Attachments and Schedules according to the following descending priority.

EXHIBIT A – Statement of Work

ATTACHMENT A.1 System Requirements

ATTACHMENT A.2 System Configuration

EXHIBIT B – Pricing Schedule

SCHEDULE B.1 Optional Work

EXHIBIT C – Project Schedule

EXHIBIT D – Contractor's EEO Certification

EXHIBIT E – County's Administration

EXHIBIT F – Contractor's Administration

EXHIBIT G – Acknowledgment, Confidentiality and Assignment Agreement

EXHIBIT H – Jury Service Ordinance

EXHIBIT I – Safely Surrendered Baby Law

EXHIBIT J – Defaulted Property Tax Reduction Program Ordinance

1.2 ENTIRE CONTRACT

This Contract, including all Exhibits, Attachments and Schedules thereto, constitutes the complete and exclusive statement of understanding between the parties and supersedes all previous contracts, written and oral, and all communications between the parties relating to the LMS Upgrade and other Services within the scope of this Contract. Notwithstanding the foregoing, County is entitled to Software License and other goods and services acquired by County from Contractor pursuant to any other agreements, including those in the form of purchase orders executed by County's Purchasing Agent.

1.3 DEFINITIONS

1.3.1 ACCEPTANCE

As used herein, the term "Acceptance" shall have the meaning specified in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.2 ACCEPTANCE TEST

As used herein, the term "Acceptance Test" shall mean any test of the System conducted by Contractor or by County with Contractor's assistance as part of the LMS Upgrade or any Work Order, as applicable.

1.3.3 BASE CONTRACT

As used herein, the term "Base Contract" shall have the meaning specified in Paragraph 1.1 (Applicable Documents).

1.3.4 BOARD OF SUPERVISORS; BOARD

As used herein, the terms “Board of Supervisors” and “Board” shall mean County’s Board of Supervisors.

1.3.5 BUSINESS DAY

As used herein, the term “Business Day” shall mean Monday through Thursday, excluding County observed holidays.

1.3.6 CONFIDENTIALITY AGREEMENT

As used herein, the term “Confidentiality Agreement” shall mean and refer to the terms and conditions of Exhibit G (Acknowledgment, Confidentiality and Assignment Agreement) to the Contract.

1.3.7 CONTRACT

As used herein, the term “Contract” shall mean the agreement executed between County and Contractor consisting of the terms and conditions for the provision of the tasks, subtask, deliverables, goods, services and other work set forth herein, including Exhibit A (Statement of Work), as further specified in Paragraph 1.1 (Applicable Documents).

1.3.8 CONTRACT SUM

As used herein, the term “Contract Sum” shall have the meaning specified in Paragraph 4.1 (Maximum Contract Sum).

1.3.9 CONTRACTOR

As used herein, the term “Contractor” shall mean the sole proprietor, partnership or corporation that has entered into a Contract with County to provide the Services and other work under the Contract.

1.3.10 CONTRACTOR'S ADMINISTRATION

As used herein, the term “Contractor's Administration” shall have the meaning specified in Paragraph 6.1 (Contractor’s Administration).

1.3.11 CONTRACTOR'S PROJECT MANAGER

As used herein, the term “Contractor's Project Manager” shall the individual designated by Contractor to administer the Contract operations after the Contract Effective Date.

1.3.12 COMMERCIAL-OFF-THE-SHELF; COTS

As used herein, the terms “Commercial-Off-The-Shelf” and “COTS” shall mean the commercially available software without any modifications or customizations.

1.3.13 COUNTY

As used herein, the term “County” shall mean the County of Los Angeles, California.

1.3.14 COUNTY MATERIALS

As used herein, the term “County Materials” shall have the meaning specified in Paragraph 46.1 (County Materials).

1.3.15 COUNTY'S PROJECT MANAGER

As used herein, the term "County's Project Manager" shall mean the person with responsibility to oversee the day-to-day activities of Contractor.

1.3.16 CUSTOMIZATIONS

As used herein, the term "Customizations" shall have the meaning specified in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.17 CUTOVER

As used herein, the term "Cutover" shall have the meaning specified in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.18 CUTOVER PLAN

As used herein, the term "Cutover Plan" shall have the meaning specified in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.19 DAY(S)

As used herein, the term "Day(s)", whether singular or plural, shall calendar day(s) unless otherwise specified.

1.3.20 DEFECT; DEFICIENCY

As used herein, the terms "Deficiency" and "Defect" shall mean and include, as applicable to any work provided by or on behalf of Contractor to County under this Contract: any malfunction, error, missing element, misconfiguration or defect in the design, development or implementation of Services, including the LMS Upgrade and any Optional Work; any error or omission or deviation from the Required Work, System Requirements, Specifications, industry standards, other mutually agreed upon standards or any other malfunction or error including the provision of negligent workmanship, which may result in the LMS, in whole or in part, not performing in accordance with the provisions of this Contract, including the Statement of Work, as determined by County's Project Manager.

1.3.21 DELIVERABLE(S)

As used herein, the term "Deliverable(s)" and "deliverable(s)", whether singular or plural, shall mean the Services to be performed by Contractor under this Contract, including those set forth in Exhibit A (Statement of Work) and any applicable Work Order.

1.3.22 DEPARTMENT; DHR

As used herein, the terms "Department" and "DHR" shall mean County's Department of Human Resources.

1.3.23 DISPUTE RESOLUTION PROCEDURE

As used herein, the term "Dispute Resolution Procedure" shall have the meaning specified in Paragraph 25 (Dispute Resolution Procedure).

1.3.24 DIRECTOR

As used herein, the term "Director" shall mean the Director of Personnel.

1.3.25 EFFECTIVE DATE

As used herein, the term “Effective Date” shall mean the date of execution of this Contract by County and Contractor.

1.3.26 ENVIRONMENT; SYSTEM ENVIRONMENT

As used herein, the terms “Environment” and “System Environment” shall have the meaning specified in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.27 EXTENDED TERM

As used herein, the term “Extended Term” shall have the meaning specified in Paragraph 3.2.

1.3.28 FISCAL YEAR

As used herein, the term “Fiscal Year” shall mean the twelve (12) month period beginning July 1st and ending the following June 30th.

1.3.29 FIXED PRICE AMOUNT

As used herein, the term “Fixed Price Amount” shall mean the not-to-exceed amount specified in Exhibit B (Pricing Schedule) for the provision of Required Work by Contractor to County under the Contract in accordance with Exhibit A (Statement of Work), as further defined in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.30 GO-LIVE

As used herein, the term “Go-Live” shall refer to the launch of the live production LMS resulting from the successful completion and delivery of all events, subtasks, tasks and deliverables identified in the Project Plan corresponding to Tasks 1 through 6 under the Statement of Work, as further defined in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.31 INITIAL TERM

As used herein, the term “Initial Term” shall have the meaning specified in Paragraph 3.1.

1.3.32 LEARNING MANAGEMENT SYSTEM; LMS

As used herein, the terms “Learning Management System” and “LMS” shall mean the web based system that assists in managing, delivering and reporting on various types of learning content and training resources, for which County owns a License.

1.3.33 LICENSE

As used herein, the term “License” shall have the meaning specified in Paragraph 46.2 (Software License).

1.3.34 LMS UPGRADE

As used herein, the term “LMS Upgrade” shall have the meaning specified in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.35 MAXIMUM FIXED PRICE

As used herein, the term “Maximum Fixed Price” shall mean a not-to-exceed amount to be paid by County to Contractor for Optional Work that may be provided by Contractor pursuant to an agreed upon Work Order upon County’s request therefor.

1.3.36 OPTIONAL WORK

As used herein, the term “Optional Work” shall mean Services and other work that may be provided by Contractor to County upon County’s request therefor and the parties’ agreement on a Work Order, including a Maximum Fixed Price on the quoted price based on the rates specified on Exhibit B (Pricing Schedule).

1.3.37 POOL DOLLARS

As used herein, the term “Pool Dollars” shall mean the amount allocated under the Contract for the provision by Contractor of Optional Work as provided herein, all requested and approved by County in accordance with the terms of this Contract.

1.3.38 PRICING SCHEDULE

As used herein, the term “Pricing Schedule” shall mean the pricing terms relating to this Contract as specified in Exhibit B (Pricing Schedule) to the Contract.

1.3.39 PROJECT

As used herein, the term “Project” shall mean and refer to the collected set of Tasks and other Services to be performed by Contractor for the LMS Upgrade in accordance with the Statement of Work, as further defined in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.40 PROJECT PLAN

As used herein, the term “Project Plan” shall mean and refer to the plan for completion of the Project by Contractor, to be developed and maintained by Contractor under the Contract for tracking all activities and resources for the Project.

1.3.41 PROJECT SCHEDULE

As used herein, the term “Project Schedule” shall mean and refer to a plan delineating all activities, tasks, subtasks, phases, decision points, milestones, deliverables and responsibilities of Contractor for Project completion.

1.3.42 REQUIRED WORK

As used herein, the term “Required Work” shall mean the Services and other work relating to the LMS Upgrade provided by Contractor under the Contract pursuant to the Statement of Work, including implementation and testing.

1.3.43 SERVICES

As used herein, the term “Services” shall mean and include consulting and professional services and other work relating to the System that may be provided by Contractor during the term of, and pursuant to, the Contract, as described in Exhibit A (Statement of Work), including Required Work and Optional Work, as further defined in Paragraph 2.1(Scope of Work).

1.3.44 SOFTWARE

As used herein, the term “Software” shall have the meaning specified in Section 2.0 (Definitions) of Exhibit A (Statement of Work).

1.3.45 SOFTWARE UPDATES

As used herein, the term “Software Updates” shall mean and include any additions to and/or replacements to the Software, available or made available to County under this Contract or otherwise, and shall include all Software performance and functionality enhancement releases, new version releases, upgrades, improvements, interim updates, including fixes and patches, deficiency corrections and any other modifications to the Software, including but not limited to those required for the System to remain in compliance with applicable Federal and State laws and regulations, to the extent applicable.

1.3.46 SPECIFICATIONS

As used herein, the term “Specifications” shall mean and refer to any documentation or other specifications relating to the System, LMS Upgrade or any other Services provided or made available by Contractor to County, including the Guide.

1.3.47 STATE

As used herein, the term “State” shall mean the State of California, USA.

1.3.48 STATEMENT OF WORK; SOW

As used herein, the terms “Statement of Work” and “SOW” shall mean and refer to the tasks, subtasks, deliverables, goods, services and other work set forth in Exhibit A (Statement of Work) including all Attachments thereto.

1.3.49 SYSTEM

As used herein, the term “System” shall have the same meaning as "LMS".

1.3.50 SYSTEM REQUIREMENTS

As used herein, the term “System Requirements” shall mean business, functional and technical requirements for the LMS to be met by Contractor in provision of Services under this Contract, as specified in Attachment A.1 (System Requirements).

1.3.51 SYSTEM UPGRADE

As used herein, the term “System Upgrade” shall have the same meaning as "LMS Upgrade".

1.3.52 TASK(S)

As used herein, the terms “Task(s)” and “task(s)”, whether singular or plural, shall mean any of the areas of Services to be performed by Contractor under this Contract, including those set forth in Exhibit A (Statement of Work) and any applicable Work Order.

1.3.53 WARRANTY PERIOD

As used herein, the term “Warranty Period” shall mean the period between Go-Live and Final Acceptance, unless otherwise specified in any Work Order.

1.3.54 WORK ORDER

As used herein, the term “Work Order” shall mean the agreed upon terms of any component of Optional Services to be provided by Contractor to County pursuant to the Contract.

2. WORK

2.1 SCOPE OF WORK

In exchange for County's payment to Contractor of the applicable fees arising under the Contract and invoiced by Contractor, Contractor shall (a) on a timely basis provide, complete, deliver and implement all tasks, subtasks, deliverables, goods, services and other work set forth in this Contract (hereinafter also "Services"), including Exhibit A (Statement of Work) and any Work Orders executed hereunder. Contractor shall perform all such Services, including Required Work and Optional Work, in accordance with Exhibit A (Statement of Work) with all Attachments thereto, any executed Work Orders and any other applicable provisions set forth in the Contract at the applicable rates and prices specified in Exhibit B (Pricing Schedule), any applicable Maximum Fixed Price and any other pricing terms agreed to by the parties in accordance with the terms of the Contract. Upon completion by Contractor and approval by County of the Required Work requested by County and set forth in Exhibit A (Statement of Work), County will update, if applicable, the log of Services in Exhibit C (Project Schedule) accordingly.

2.2 APPROVAL OF WORK

All tasks, subtasks, work products, deliverables, services or other work performed by Contractor under the Contract (hereinafter also "deliverables") are subject to the written approval of County's Project Manager or designee. Approval or rejection of deliverable(s) will not be unreasonably withheld by County.

2.3 STANDARD OF SERVICES

Contractor's Services required by this Contract shall during the term of the Contract conform to reasonable commercial standards as they exist in Contractor's profession or field of practice. If Contractor's services or other work provided under this Contract fail to conform to such standards, upon notice from County specifying the failure of performance, Contractor shall, at Contractor's sole expense, provide the applicable remedy as specified in this Contract, including Exhibit A (Statement of Work) and any applicable Work Order. Contractor shall, at its own expense, correct any data in which (and to the extent that) errors have been caused by Contractor or by any other tools introduced by Contractor into the System for the purpose of performing Services under this Contract or otherwise.

2.4 OPTIONAL WORK

Upon the written request of County's Project Director and mutual agreement of the parties, Contractor shall provide to County Optional Work using Pool Dollars in accordance with Task 8 (Optional Work) of the Statement of Work. Optional Work shall only provide for those tasks not reflected and specified, as determined by County's Project Manager.

Upon County's request and Contractor's agreement to provide the Optional Work, Contractor shall provide to County within ten (10) Business Days of such request, or such longer period as agreed to by the parties, a proposed Work Order and a quote for a Maximum Fixed Price calculated in accordance with the applicable pricing terms set forth in Exhibit B (Pricing Schedule). Contractor's quotation shall be valid for at least ninety (90) days from submission. Contractor shall commence the Optional Work following agreement by the parties with respect to such Work Order and the Maximum Fixed Price. Upon completion by Contractor, and approval by County in accordance with the terms of this Contract, of such Optional Work, Schedule B.1

(Optional Work) shall be updated accordingly to add such items of Optional Work by Change Notice executed in accordance with Paragraph 7.2 (Change Notices).

2.5 UNAPPROVED WORK

If Contractor provides any tasks, subtasks, deliverables, goods, services or other work to County other than those specified in this Contract, or if Contractor provides such items requiring County's prior written approval without first having obtained such written approval, the same shall be deemed to be a gratuitous effort on the part of Contractor.

3. TERM OF CONTRACT

- 3.1 The term of this Contract shall commence upon the Effective Date and shall continue for three (3) years thereafter, unless sooner terminated/suspended or extended, in whole or in part, as provided in this Contract (hereinafter "Initial Term").
- 3.2 At the end of the Initial Term or the Extended Term, as applicable, County may, at its sole option, extend this Contract for up to two (2) additional one-year terms (hereinafter "Extended Term") one (1) year at a time; provided, however, that if County elects not to exercise its option to extend at the end of the Initial Term or the Extended Term, as applicable, the remaining option shall lapse. County shall be deemed to have exercised its extension options automatically, without further act, unless, no later than thirty (30) days prior to the expiration of the Initial Term or the Extended Term, as applicable, County notifies Contractor in writing that County elects not to extend the Contract pursuant to this Paragraph 3.2.
- 3.3 As used throughout this Contract, the word "term" shall include the Initial Term and the Extended Term, to the extent County exercises its options under this Paragraph 2.
- 3.4 Contractor shall notify County when this Contract is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, Contractor shall send written notification to County's Project Manager, at the address set forth in Exhibit E (County's Administration).
- 3.5 County maintains databases that track/monitor Contractor performance history. Information entered into such databases may be used for a variety of purposes, including determining whether County will exercise a Contract term extension option.

4. CONTRACT SUM

4.1 MAXIMUM CONTRACT SUM

The Contract Sum under this Contract shall be the maximum total monetary amount payable by County to Contractor for supplying all tasks, subtasks, deliverables, goods, services and other work provided by Contractor during the term of the Contract, including any Optional Services, and shall not exceed the amount set forth in Exhibit B (Pricing Schedule). There is no guarantee that the entire Contract Sum amount shall be paid to Contractor under the Contract.

Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with

County's express prior written consent witnessed by a written Amendment to the Contract, which is formally approved and executed by the parties.

Contractor shall maintain a system of record keeping that will allow Contractor to determine when it has incurred seventy-five percent (75%) of the Contract Sum. Upon occurrence of this event, Contractor shall send written notification to County's Project Manager, at the address set forth in Exhibit E (County's Administration).

4.2 NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION / TERMINATION / SUSPENSION OF CONTRACT

Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination/suspension of this Contract. Should Contractor receive any such payment, it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination/suspension of this Contract shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination/suspension of this Contract.

4.3 INVOICES AND PAYMENTS

4.4 Contractor shall invoice County only for providing the tasks, subtasks, deliverables, goods, services and other work specified in Exhibit A (Statement of Work) and elsewhere hereunder, including any applicable Work Order. Contractor shall prepare invoices, which shall include the charges owed to Contractor by County under the terms of this Contract. Contractor's payments shall be as provided in Exhibit B (Pricing Schedule). Unless otherwise agreed to in a Work Order, Contractor shall be paid in arrears only for the tasks, subtasks, deliverables, goods, services and other work approved and accepted in writing by County. If County does not approve and accept any work in writing, no payment shall be due to Contractor for that work.

4.4.1 Contractor's invoices shall be priced in accordance with Exhibit B (Pricing Schedule) and shall contain the information set forth in Exhibit A (Statement of Work) or any applicable Work Order describing the tasks, subtasks, deliverables, goods, services, and/or other work for which payment is claimed. Contractor's Services amount shall not increase beyond those specified in Exhibit B (Pricing Schedule) during the term of the Contract.

4.4.2 Contractor's invoice shall include the charges owed to Contractor by County under the terms of this Agreement as provided in Exhibit B (Pricing Schedule). All invoices and supporting documents under this Contract shall be submitted in triplicate (original and two copies) and shall itemize the work completed. Invoices shall be submitted to:

County of Los Angeles
Department of Human Resources
Attention Fiscal Services
500 W. Temple Street, Room 585
Los Angeles, CA 90012

The invoices shall be in a form approved by County's Project Manager and shall meet the following requirements:

- a. Invoices must contain the Contract Number.

- b. Invoices must contain the Contractor's Name, address and phone number.
- c. Invoices must include the number(s) and description of the Deliverable(s) and/or Work Order being invoiced.
- d. An invoiced amount must track any Deliverable amount(s) set forth in Exhibit B (Pricing Schedule) and/or a Maximum Fixed Price for any Work Order.

Any invoice submitted by the Contractor that does not conform to the above, at the discretion of the Department, may not be considered as received and may not be processed or paid, until it is replaced by a substitute invoice that does conform.

- 4.4.3 Payments for the Services provided under this Contract will be processed in arrears within thirty (30) days following receipt by the County personnel identified above, provided that Contractor is not in default under any provision of the Contract and has submitted a complete and accurate statement of payment due, along with supporting documentation.

Payment may be subject to deduction for failure to meet performance standards as defined in the Contract, the Statement of Work and/or any applicable Work Order.

- 4.4.4 County may delay the last payment due until one (1) month after the termination/suspension of the Contract. Contractor shall be liable for payment on thirty (30) days written notice of any offset authorized by the Contract not deducted from any payment made by County to Contractor.

4.4.5 COUNTY APPROVAL OF INVOICES

All invoices submitted by Contractor for payment must have the written approval of County's Project Manager prior to any payment thereof. In no event shall County be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld.

4.4.6 COUNTY'S RIGHT TO WITHHOLD PAYMENT

Notwithstanding any other provision of this Contract, and in addition to any rights of County given by law or provided in this Contract, County may upon written notice to Contractor withhold payment for any deliverable while Contractor, with no fault of County, is in default hereunder or default related to Services hereunder.

5. ADMINISTRATION OF CONTRACT – COUNTY

5.1 COUNTY'S ADMINISTRATION

A listing of all County personnel responsible for the administration of this Contract on behalf of County (hereinafter "County's Administration"), as referenced in this Paragraph 5 below, is set forth in Exhibit E (County's Administration). No member of County's Administration is authorized to make any changes in any of the terms and conditions of this Contract unless specifically authorized under Paragraph 7 (Change Notices and Amendments). Unless otherwise specified, reference to each of the persons identified in Exhibit E (County's Administration) shall also include his/her designee. County shall notify Contractor in writing of any change in the names or addresses shown.

5.2 COUNTY'S PROJECT MANAGER

County's Project Manager will be responsible for ensuring that the objectives, technical, business and operation standards and requirements of this Contract are met and overseeing the day-to-day administration of this Contractor. County's Project Manager shall have full authority to supervise Contractor's performance in the daily operation of this Contract and shall also provide direction to Contractor in areas relating to policy, procedures and other matters within the purview of this Contract. County's Project Manager will on a regular basis interface with Contractor's Project Manager. County's Project Manager will have the right at all times to inspect any and all tasks, subtasks, deliverables, goods and other Services provided by or on behalf of Contractor. All work performed under this Contract shall be subject to the approval of County's Project Manager. Unless specified otherwise, County's Project Manager shall also include his/her designee.

6. ADMINISTRATION OF CONTRACT - CONTRACTOR**6.1 CONTRACTOR'S ADMINISTRATION**

A listing of all Contractor personnel responsible for the administration of this Contract on behalf of Contractor (hereinafter "Contractor's Administration"), as referenced in this Paragraph 6 below, is set forth in Exhibit F (Contractor's Administration). No member of Contractor's Administration is authorized to make any changes in any of the terms and conditions of this Contract unless specifically authorized under Paragraph 7 (Change Notices and Amendments). Contractor shall notify County in writing of any change in the names or addresses shown. All staff employed by and/or on behalf of Contractor shall be adults who are fully fluent in both spoken and written English.

6.2 CONTRACTOR'S PROJECT MANAGER

Contractor's Project Manager shall be a full-time employee of Contractor who shall be responsible for Contractor's performance of all Services under the Contract and ensuring Contractor's compliance with this Contract. Contractor's Project Manager shall interface with County's Project Manager on a regular basis and shall be available during business hours acceptable to County for telephone contact and/or meetings as required by County and shall report to County in the manner set forth in this Contract, including Exhibit A (Statement of Work).

6.3 APPROVAL OF CONTRACTOR'S STAFF

Contractor shall provide qualified personnel to provide any Services and other work under the Contract. County has the absolute right to approve or disapprove any member of Contractor's Administration and any personnel providing Services under the Contract and any proposed changes in Contractor's Administration staff or personnel providing such Services, including but not limited to Contractor's Project Manager.

Contractor shall remove and replace any employee working on this Contract when requested to do so by County. Request will be submitted to Contractor by County in writing stating the reasons for the removal, provided that such reasons are based on reported instances of malfeasance, impropriety, or violation of Contractor or County rules by the employee.

6.4 BACKGROUND AND SECURITY INVESTIGATIONS

6.4.1 Each of Contractor's staff performing services under this Contract who is in a designated sensitive position, as determined by County in its sole discretion, shall undergo and pass a

background investigation to the satisfaction of County as a condition of beginning and continuing to perform Services under this Contract. Such background investigation must be obtained through fingerprints submitted to the California Department of Justice to include State, local and federal-level review, which may include, but shall not be limited to, criminal conviction information. The fees associated with the background investigation shall be at the expense of Contractor, regardless of whether the member of Contractor's staff passes or fails the background investigation.

If a member of Contractor's staff does not pass the background investigation, County may request that the member of Contractor's staff be removed immediately from performing services under the Contract. Contractor shall comply with County's request at any time during the term of the Contract. County will not provide to Contractor or to Contractor's staff any information.

6.4.2 County may request that Contractor's staff be immediately removed from working on the County Contract at any time during the term of this Contract. Contractor shall comply with County's request at any time during the term of the Contract. County will not provide to Contractor nor to Contractor's staff any information obtained through County conducted background clearance.

6.4.3 County may immediately, at its sole discretion, deny or terminate/suspend facility access to any of Contractor's staff that does not pass such investigation(s) to the satisfaction of County whose background or conduct is incompatible with County facility access.

6.4.4 Disqualification, if any, of Contractor's staff pursuant to this Paragraph 6.4 shall not relieve Contractor of its obligation to complete all Services and other work in accordance with the terms and conditions of this Contract.

6.5 RULES AND REGULATIONS

During the time when Contractor's employees, subcontractors or agents are at County facilities, such persons shall be subject to the applicable rules and regulations of County facilities. It is the responsibility of Contractor to acquaint such persons, who are to provide Services under this Contract, with such rules and regulations. In the event that County determines that an employee, subcontractor or agent of Contractor has violated any applicable rule or regulation, County shall notify Contractor, and Contractor shall undertake such remedial or disciplinary measures as Contractor determines appropriate. If the reported violation is not thereby corrected, then Contractor shall permanently withdraw its employee, subcontractor or agent from the provision of Services upon receipt of written notice from County that: (i) such employee, subcontractor or agent has violated such rules or regulations; or (ii) such employee's, subcontractor's or agent's actions, while on County premises, indicate that the employee, subcontractor or agent may adversely affect the provision of Services. Upon removal of any employee, subcontractor or agent, Contractor shall immediately replace the employee, subcontractor or agent and continue uninterrupted Services hereunder.

6.6 CONTRACTOR'S STAFF IDENTIFICATION

Contractor shall, at its sole expense, furnish and require every on-duty employee providing Services under this Contract at a County facility to wear a visible photo identification badge identifying employee by name, physical description and company. Such badge shall display on employee's person at all times he/she is on County designated property.

7. CHANGE NOTICES AND AMENDMENTS**7.1 GENERAL**

No representative of either County or Contractor, including those named in this Contract, is authorized to make any changes in any of the terms, obligations or conditions of this Contract, except through the procedures set forth in this Paragraph 7. County reserves the right to change any portion of the work required under this Contract or to amend such other terms and conditions, which may become necessary. Any such revisions shall be accomplished only as provided in this Paragraph 7.

7.2 CHANGE NOTICES

For any change which does not materially affect the scope of work or any other term or condition included under this Contract, a Change Notice may be prepared in writing and signed by County's Project Manager, or designee. Consistent with the foregoing, County's Project Manager is specifically authorized to execute Change Notices for the acquisition of Optional Work using Pool Dollars.

7.3 AMENDMENTS

Except as otherwise provided in this Contract, for any change which materially affects the scope of work or any term or condition included in this Contract, a negotiated Amendment to this Contract shall be required to be executed in writing by County's Board of Supervisors and Contractor's authorized representative(s) or, if delegated by the Board, the Director or designee and Contractor's authorized representative(s). Notwithstanding the foregoing, the Director or designee is specifically authorized to execute any Amendment for increases in the Contract Sum by up to ten percent (10%) cumulatively above the Contract Sum as of the Effective Date.

7.4 BOARD ORDERS

County's Board of Supervisors or Chief Executive Officer, or designee, may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. County reserves the right to add and/or change such provisions as required by County's Board of Supervisors or Chief Executive Officer. To implement such changes, a Change Notice or an Amendment to the Contract shall be prepared and executed by Contractor's authorized representative(s) and the Director or designee.

7.5 PROJECT SCHEDULE

Changes to the Project Schedule shall be made upon mutual agreement, in writing, by County's Project Manager and Contractor's Project Manager by Change Notice or otherwise, provided that County's Project Manager's and Contractor's Project Manager's agreement to alter the Project Schedule shall not prejudice either party's right to claim that such alterations constitute an Amendment to this Contract that shall be governed by the terms of Paragraph 7.3 (Amendments) above.

8. ASSIGNMENT AND DELEGATION

- 8.1 Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Paragraph 8.1, County consent shall require a written amendment to the Contract, which is

formally approved and executed by the parties. Any payments by County to any approved delegatee or assignee on any claim under this Contract shall be deductible, at County's sole discretion, against the claims, which Contractor may have against County.

- 8.2 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of County in the form of an Amendment in accordance with applicable provisions of this Contract, including the need for an Amendment.
- 8.3 Any assumption, assignment, delegation, or takeover of any of Contractor's duties, responsibilities, obligations, or performance of same by any person or entity other than Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Contract which may result in the termination/suspension of this Contract. In the event of such termination/suspension, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.
- 8.4 For any change affecting Contractor's Administration or Contractor's project personnel, Contractor shall submit to County's Project Manager, written notification and request to effect the requested change. County's Project Manager or designee may accept or reject such notification and request.

9. APPROPRIATION OF FUNDS

9.1 BUDGET REDUCTIONS

In the event that County's Board of Supervisors adopts, in any Fiscal Year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County contracts, County reserves the right to reduce its payment obligation under this Contract correspondingly for that Fiscal Year and any subsequent Fiscal Year during the term of this Contract (including any extensions), and the Services and other work to be provided by Contractor under this Contract shall also be reduced correspondingly. County's notice to Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, Contractor shall continue to provide all of the Services and other work set forth in this Contract.

9.2 NON-APPROPRIATION OF FUNDS

County's obligation may be limited if it is payable only and solely from funds appropriated for the purpose of this Contract. Notwithstanding any other provision of this Contract, County shall not be obligated for Contractor's performance hereunder or by any provision of this Contract during any of County's future fiscal years unless and until County's Board of Supervisors appropriates funds for this Contract in County's budget for each such future Fiscal Year. In the event that funds are not appropriated for this Contract, then County shall, at its sole discretion, either (i) terminate this Contract as of June 30 of the last fiscal year for which funds were

appropriated or (ii) reduce the work provided hereunder in accordance with the funds appropriated, as mutually agreed to by the parties. County will notify Contractor in writing of any such non-appropriation of funds at its election at the earliest possible date.

10. AUTHORIZATION WARRANTY

Contractor represents and warrants that the person executing this Contract for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.

11. COMPLAINTS

Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

- 11.1 Within ten (10) Business Days after the Contract Effective Date, Contractor shall provide County with Contractor's policy for receiving, investigating and responding to user complaints.
- 11.2 County will review Contractor's policy and provide Contractor with approval of said plan or with requested changes.
- 11.3 If County requests changes in Contractor's policy, Contractor shall make such changes and resubmit the plan within ten (10) Business Days for County approval.
- 11.4 If, at any time, Contractor wishes to change Contractor's policy, Contractor shall submit proposed changes to County for approval before implementation.
- 11.5 Contractor shall preliminarily investigate all complaints and notify County's Project Manager of the status of the investigation within five (5) Business Days of receiving the complaint.
- 11.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.
- 11.7 Written response to complaints against Contractor and/or Contractor's staff shall be provided to County's Project Manager within five (5) Business Days of receipt of complaint, unless additional time to respond is requested by Contractor in writing and approved in writing by County's Project Manager.

12. COMPLIANCE WITH APPLICABLE LAWS

- 12.1 In the performance of this Contract, Contractor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.
- 12.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 12 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Contractor shall not have the right to enter into

any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

13. COMPLIANCE WITH CIVIL RIGHTS LAWS

Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. Contractor shall comply with Exhibit D (Contractor's EEO Certification).

14. COMPLIANCE WITH COUNTY'S JURY SERVICE PROGRAM

14.1 JURY SERVICE PROGRAM

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached hereto as Exhibit H (Jury Service Ordinance) and incorporated herein by reference.

14.2 WRITTEN EMPLOYEE JURY SERVICE POLICY

14.2.1 Unless Contractor has demonstrated to County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees shall receive from Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with Contractor or that Contractor deduct from the Employee's regular pay the fees received for jury service.

14.2.2 For purposes of this Paragraph 14, "Contractor" means a person, partnership, corporation or other entity which has a contract with County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: (1) the lesser number is a recognized industry standard as determined by the County, or (2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for County under the Contract, the subcontractor shall also be subject to the provisions of this Paragraph 14. The provisions of this Paragraph 14 shall be inserted into any such subcontract agreement, and a copy of the Jury Service Program shall be attached to the agreement.

14.2.3 If Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's

definition of “Contractor” or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. County may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to County’s satisfaction that Contractor either continues to remain outside of the Jury Service Program’s definition of “Contractor” and/or that Contractor continues to qualify for an exception to the Program.

- 14.2.4 Contractor’s violation of this Paragraph 14 of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate/suspend the Contract and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

15. CONFIDENTIALITY AND SECURITY

15.1 CONFIDENTIAL INFORMATION

- 15.1.1 Contractor shall maintain the confidentiality of all records and information, events and circumstances which occur during the course of Contractor’s performance under the Contract, including County Materials (hereinafter “Confidential Information”), in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, guidelines, policies and procedures, and directives relating to confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information.
- 15.1.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with this Paragraph 15, as determined by County in its sole judgment. Any legal defense pursuant to Contractor’s indemnification obligations under this Paragraph 15 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and to reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without County’s prior written approval.
- 15.1.3 Contractor shall inform all of its officers, employees, agents and subcontractors providing Services or other work hereunder of the confidentiality provisions of this Contract. Contractor shall ensure that each person performing work for or on behalf of Contractor under the Contract, including Contractor’s Project Manager, shall sign and adhere to the terms and conditions set forth in Exhibit G (Acknowledgment, Confidentiality and Assignment Agreement) prior to commencing any work under the Contract. Notwithstanding anything herein to the contrary, Contractor acknowledges and agrees

that it is responsible for any breach of the obligations of confidentiality set forth herein by any person or entity to which Contractor discloses such confidential information.

15.2 DISCLOSURE OF INFORMATION

With respect to any Confidential Information obtained by Contractor pursuant to the Contract, Contractor shall: (a) not use any such records or information for any purpose whatsoever other than carrying out the express terms of the Contract; (b) promptly transmit to County all requests for disclosure of any such records or information; (c) not disclose, except as otherwise specifically permitted by the Contract, any such records or information to any person or organization other than County without County's prior written authorization that the records are, or information is, releasable; and (d) at the expiration or termination of the Contract, return all such records and information to County or maintain such records and information according to the written procedures sent to Contractor by County for this purpose.

15.3 SECURITY

15.3.1 SYSTEM SECURITY

Notwithstanding anything to the contrary herein, Contractor shall provide all Services hereunder utilizing security technologies and techniques in accordance with all applicable industry standards, Contractor's best practices and applicable County security policies, procedures and requirements set forth in this Contract or otherwise as required by law, including those relating to the prevention and detection of fraud or other inappropriate use or access of systems and networks. Without limiting the generality of the foregoing, Contractor shall implement and use network management and maintenance applications and tools and fraud prevention and detection and encryption technologies and prevent the introduction of any disabling device into the System. In no event shall Contractor's actions or inaction result in any situation that is less secure than the security that Contractor then provides for its own systems and data.

15.3.2 SYSTEM DATA SECURITY

Contractor hereby acknowledges the right of privacy of all persons as to whom there exists on any system data or any other County data. Contractor shall protect, secure and keep confidential all such County data in compliance with all federal, state and local laws, rules, regulations, ordinances, and publicly known guidelines and directives, relating to confidentiality and information security, including any breach of the security of the System, such as any unauthorized acquisition of system data that compromises the security, confidentiality or integrity of personal information. Further, Contractor shall take all reasonable actions necessary or advisable to protect all system data in its possession, custody or control from loss or damage by any cause, including fire, theft or other catastrophe. In addition, if requested by County's Project Manager, Contractor shall provide notification to all persons whose unencrypted personal information was, or is reasonably believed to have been, acquired by any unauthorized person, and the content, method and timing of such notification shall be subject to the prior approval of County's Project Manager. Contractor shall not use system data for any purpose or reason other than to fulfill its obligations under this Contract.

15.4 DATA DESTRUCTION

Unless otherwise required by law, contractors that have maintained, processed or stored County data and/or information, including County Materials, have the responsibility to certify that the data and information have been appropriately destroyed consistent with the National Institute of

Standards and Technology (NIST) Special Publication SP 800-88 titled Guidelines for Media Sanitization found at <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>. Contractor will comply with the NIST standards by validating that Contractor has performed the proper method of sanitization (destruction, clearing, purging, etc.) of County data and/or information imported by Contractor onto its hardware or any storage media during the term of the Contract. County must receive from Contractor, within thirty (30) calendar days of the termination or expiration of this Contract, a signed document which certifies and validates that any such County data and information, which resided on such Contractor's hardware or storage media at any time during the term of the Contract, was properly destroyed and sanitized by being placed in one or more of the following storage conditions: unusable, unreadable and indecipherable.

16. CONFLICT OF INTEREST

- 16.1 No County employee whose position with County enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of Contractor who may financially benefit from the performance of work hereunder shall in any way participate in County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such work.
- 16.2 Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. Contractor warrants that it is not now aware of any facts that create a conflict of interest. If Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Paragraph 15 shall be a material breach of this Contract.

17. CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST

Should Contractor require additional or replacement personnel after the Effective Date to perform the services set forth herein, Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the term of this Contract.

18. CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

- 18.1 Should Contractor require additional or replacement personnel after the Effective Date, Contractor shall give consideration for any such employment openings to participants in County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that Contractor will interview qualified candidates. County will refer GAIN/GROW participants by job category to Contractor.

- 18.2 In the event that both the laid-off County employees and the GAIN/GROW participants are available for hiring, County employees shall be given first priority.

19. CONTRACTOR RESPONSIBILITY AND DEBARMENT

19.1 RESPONSIBLE CONTRACTOR

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Contract. It is County's policy to conduct business only with responsible contractors.

19.2 CHAPTER 2.202 OF THE COUNTY CODE

Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if County acquires information concerning the performance of Contractor on this or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided in the Contract, debar Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate/suspend any or all existing contracts Contractor may have with County.

19.3 NON-RESPONSIBLE CONTRACTOR

County may debar a Contractor if the Board of Supervisors finds, in its discretion, that Contractor has done any of the following: (1) violated a term of a contract with County or a nonprofit corporation created by County, (2) committed an act or omission which negatively reflects on Contractor's quality, fitness or capacity to perform a contract with County, any other public entity, or a nonprofit corporation created by County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against County or any other public entity.

19.4 CONTRACTOR HEARING BOARD

- 19.4.1 If there is evidence that Contractor may be subject to debarment, County will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- 19.4.2 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and, if so, the appropriate length of time of the debarment. Contractor and County shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
- 19.4.3 After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

- 19.4.4 If Contractor has been debarred for a period longer than five (5) years, that Contractor may, after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate/suspend the debarment. County may, in its discretion, reduce the period of debarment or terminate/suspend the debarment if it finds that Contractor has adequately demonstrated one or more of the following: (i) elimination of the grounds for which the debarment was imposed; (ii) a bona fide change in ownership or management; (iii) material evidence discovered after debarment was imposed; or (iv) any other reason that is in the best interests of County.
- 19.4.5 The Contractor Hearing Board will consider a request for review of a debarment determination only where (i) Contractor has been debarred for a period longer than five (5) years; (ii) the debarment has been in effect for at least five (5) years; and (iii) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination/suspension of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination/suspension of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
- 19.4.6 The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate/suspend the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

19.5 SUBCONTRACTORS OF CONTRACTOR

These terms of this Paragraph 19 shall also apply to subcontractors of County contractors.

20. CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

Contractor acknowledges that County places a high priority on the implementation of the Safely Surrendered Baby Law. Contractor understands that it is County's policy to encourage all County Contractors to voluntarily post County's "Safely Surrendered Baby Law" poster in a prominent position at Contractor's place of business. Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

21. CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

- 21.1 Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

21.2 As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Contract to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

22. CONTRACTOR'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this Contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

23. COUNTY'S QUALITY ASSURANCE PLAN

County or its agent may evaluate Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvements/corrective action measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate/suspend this Contract or impose other penalties as specified in this Contract.

24. DAMAGE TO COUNTY FACILITIES, BUILDINGS AND GROUNDS

24.1 Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings or grounds caused by Contractor or employees or agents of Contractor. Such repairs shall be made immediately after Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

24.2 If Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by Contractor by cash payment upon demand.

25. DISPUTE RESOLUTION PROCEDURE

25.1 Contractor and County agree to act immediately to mutually resolve any disputes which may arise with respect to this Contract. All such disputes shall be subject to the provisions of this Paragraph 25 (such provisions shall be collectively referred to as the "Dispute Resolution Procedure"). Time is of the essence in the resolution of disputes.

25.2 Contractor and County agree that, the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder.

- 25.3 Neither party shall delay or suspend its performance during the Dispute Resolution Procedure.
- 25.4 In the event of any dispute between the parties with respect to this Agreement, Contractor and County shall submit the matter to their respective Project Managers for the purpose of endeavoring to resolve such dispute.
- 25.5 In the event that the Project Managers are unable to resolve the dispute within a reasonable time not to exceed ten (10) days from the date of submission of the dispute to them, then the matter shall be immediately submitted to Contractor's authorized executive and the Director. These persons shall have ten (10) days to attempt to resolve the dispute.
- 25.6 In the event that at these levels, there is not a resolution of the dispute acceptable to both parties, then each party may assert its other rights and remedies provided under this Contract and/or its rights and remedies as provided by law.
- 25.7 All disputes utilizing this Dispute Resolution Procedure shall be documented in writing by each party and shall state the specifics of each alleged dispute and all actions taken. The parties shall act in good faith to resolve all disputes. At both levels described in this Paragraph 25, the efforts to resolve a dispute shall be undertaken by conference between the parties' respective representatives, either orally, by face to face meeting or by telephone, or in writing by exchange of correspondence.
- 25.8 Notwithstanding any other provision of this Agreement, County's right to seek injunctive relief to enforce the provisions of Paragraph 15 (Confidentiality and Security) shall not be subject to this Dispute Resolution Procedure. The preceding sentence is intended only as a clarification of County's rights and shall not be deemed to impair any claims that County may have against Contractor or County's rights to assert such claims after any such injunctive relief has been obtained.

26. EMPLOYMENT ELIGIBILITY VERIFICATION

- 26.1 Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by law.
- 26.2 Contractor shall indemnify, defend, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

27. FACSIMILE REPRESENTATIONS

County and Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments and Change Notices prepared pursuant to Paragraph 7 (Change Notices and Amendments) and

received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments and Change Notices to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of “original” versions of such documents.

28. FAIR LABOR STANDARDS

Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys’ fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by Contractor’s employees for which County may be found jointly or solely liable.

29. FORCE MAJEURE

- 29.1 Neither party shall be liable for such party’s failure to perform its obligations under and in accordance with this Contract, if such failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party’s subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this Paragraph 29 as “force majeure events”).
- 29.2 Notwithstanding the foregoing, a default by a subcontractor of Contractor shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both Contractor and such subcontractor, and without any fault or negligence of either of them. In such case, Contractor shall not be liable for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. As used in this Paragraph 29, the term “subcontractor” and “subcontractors” mean subcontractors at any tier.
- 29.3 In the event Contractor’s failure to perform arises out of a force majeure event, Contractor agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

30. GOVERNING LAW, JURISDICTION AND VENUE

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

31. INDEPENDENT CONTRACTOR STATUS

- 31.1 This Contract is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
- 31.2 Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. County shall have no

liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

31.3 Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of Contractor and not employees of County. Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of Contractor pursuant to this Contract.

31.4 Contractor shall adhere to the provisions stated in Paragraph 15 (Confidentiality).

32. INDEMNIFICATION

32.1 Notwithstanding any provision of this Contract to the contrary, whether expressly or by implication, Contractor shall indemnify, defend, and hold harmless the County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers ("County Indemnities"), from and against any and all liability, including, but not limited to, demands, claims, actions, fees, costs, and expenses of any nature whatsoever (including attorney and expert witness fees), arising from or connected with Contractor's negligent acts and/or omissions arising from and/or relating to this Contract except for loss or damage arising from the sole negligence or willful misconduct of the County Indemnities.

Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 32 shall be conducted by Contractor and performed by counsel selected by Contractor.

Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense.

32.2 Except for any breach of Paragraph 34 (Intellectual Property Indemnification) and the indemnity obligations contained herein, in no event shall either party be liable to the other, (i) for any type of special, incidental, punitive, indirect or consequential damages, whether arising under any theory of liability including contract, strict liability, indemnity, tort (including negligence) or otherwise, including, but not limited to, lost revenue, lost profits, loss of technology, even if advised of the possibility of such damages; and (ii) for any damages which, in the aggregate exceed two times the maximum Contract Sum allocated for the term of the Contract.

33. INSURANCE

33.1 GENERAL

Without limiting Contractor's indemnification of County, and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in this Paragraph 33, including Paragraph 33.4 (Cancellation of or Changes in Insurance), of this Base Contract. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to this Contract. County in no way warrants that the Required Insurance is sufficient to protect Contractor for liabilities which may arise from or relate to this Contract.

33.2 EVIDENCE OF COVERAGE AND NOTICE TO COUNTY

33.2.1 A certificate(s) of insurance coverage (Certificate) satisfactory to County and a copy of an Additional Insured endorsement confirming that County and its Agents (defined

below) have been given Insured status under Contractor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this Contract.

- 33.2.2 Renewal Certificates shall be provided to County not less than ten (10) days prior to Contractor's policy expiration dates. County reserves the right to obtain complete, certified copies of any required Contractor and/or subcontractor insurance policies at any time.
- 33.2.3 Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Contract by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of Contractor identified as the contracting party in this Contract. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, one-hundred thousand (\$100,000) dollars in the case of technology errors and omissions, and one-hundred thousand (\$100,000) dollars in the case of privacy and network security (Cyber) liability, and list any County required endorsement forms.
- 33.2.4 Neither County's failure to obtain, nor County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by Contractor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be sent to County's Project Manager, at the address set forth in Exhibit E (County's Administration).

Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its subcontractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against Contractor and/or County.

33.3 INSURANCE REQUIREMENTS

33.3.1 ADDITIONAL INSURED STATUS AND SCOPE OF COVERAGE

The County of Los Angeles, its Special Districts, Elected Officials, Appointed Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of County. County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of Contractor's acts or omissions, whether such liability is attributable to Contractor or to County. The full policy limits and scope of protection also shall apply to County and its Agents as an additional insured, even if they exceed County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

33.3.2 INSURER FINANCIAL RATINGS

Coverage shall be placed with insurers acceptable to County with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

33.3.3 CONTRACTOR'S INSURANCE SHALL BE PRIMARY

Contractor's insurance policies, with respect to any claims related to this Contract, shall be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

33.3.4 WAIVERS OF SUBROGATION

To the fullest extent permitted by law, Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Contract. Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

33.3.5 SUBCONTRACTOR INSURANCE COVERAGE REQUIREMENTS

Contractor shall include all subcontractors as insureds under Contractor's own policies, or shall provide County with each subcontractor's separate evidence of insurance coverage. Contractor shall be responsible for verifying each subcontractor complies with the Required Insurance provisions herein, and shall require that each subcontractor name County and Contractor as additional insureds on the subcontractor's General Liability policy. Contractor shall obtain County's prior review and approval of any subcontractor request for modification of the Required Insurance.

33.3.6 DEDUCTIBLES AND SELF-INSURED RETENTIONS (SIRs)

Contractor's policies shall not obligate County to pay any portion of any Contractor deductible or SIR.

33.3.7 CLAIMS MADE COVERAGE

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the Effective Date of this Contract. Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Contract expiration, termination/suspension or cancellation.

33.3.8 APPLICATION OF EXCESS LIABILITY COVERAGE

Contractor may use a combination of primary, and excess insurance policies which provide coverage as broad as the underlying primary policies, to satisfy the Required Insurance provisions.

33.3.9 SEPARATION OF INSUREDS

All liability policies shall provide cross liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

33.3.10 ALTERNATIVE RISK FINANCING PROGRAMS

County reserves the right to review, and then approve, Contractor's use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. County and its Agents shall be designated as an Additional Covered Party under any approved program.

33.3.11 COUNTY REVIEW AND APPROVAL OF INSURANCE REQUIREMENTS

County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

33.4 CANCELLATION OF OR CHANGES IN INSURANCE

Contractor shall provide County, or Contractor's insurance policies shall contain, a provision that County shall receive written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance of any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of this Contract, in the sole discretion of County, upon which County may suspend or terminate/suspend this Contract.

33.5 FAILURE TO MAINTAIN INSURANCE

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which County immediately may withhold payments due to Contractor and/or suspend or terminate/suspend this Contract. County, at its sole discretion, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase the Required Insurance and, without further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

33.6 INSURANCE COVERAGE REQUIREMENTS

33.6.1 GENERAL LIABILITY

Commercial General Liability insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

| | |
|--|-------------|
| General Aggregate: | \$2 million |
| Products/Completed Operations Aggregate: | \$1 million |
| Personal and Advertising Injury: | \$1 million |
| Each Occurrence: | \$1 million |

33.6.2 AUTOMOBILE LIABILITY

Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Contractor's use of autos pursuant to this Contract, including, leased, hired, and/or non-owned autos including but not limited to any vehicles driven in the daily operation of the business, as

each may be applicable. Contractor warrants that it shall not use any owned vehicles for purposes of this Contract.

33.6.3 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

Workers Compensation and Employers' Liability insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

33.6.4 INTENTIONALLY OMITTED

33.6.5 TECHNOLOGY ERRORS & OMISSIONS INSURANCE

Insurance coverage for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render computer or information technology services and technology products. Coverage for violation of software copyright should be included. Technology services should at a minimum include (1) systems analysis (2) systems programming (3) data processing (4) systems integration (5) outsourcing including outsourcing development and design (6) systems design, consulting, development and modification (7) training services relating to computer software or hardware (8) management, repair and maintenance of computer products, networks and systems (9) marketing, selling, servicing, distributing, installing and maintaining computer hardware or software (10) data entry, modification, verification, maintenance, storage, retrieval or preparation of data output, and any other services provided by the vendor with limits not less than \$10 million. Additional descriptions should be added if the services provided fall outside the above description.

33.6.6 PRIVACY AND NETWORK SECURITY (CYBER) LIABILITY

Privacy and Network Security (Cyber) Liability insurance, which includes coverage for Contractor's liability arising from a security incident as it relates to this Contract, with limits of not less than \$10 million aggregate for each occurrence. For the purposes of this Paragraph, the term "security incident" means (1) privacy breaches, (2) system breaches, (3) denial or loss of service, (4) introduction, implantation, or spread of malicious software code, (5) unauthorized access to or use of computer systems with limits. No exclusion/restriction for unencrypted portable devices/media may be on the policy. Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Contract's expiration, termination or cancellation.

34. INTELLECTUAL PROPERTY INDEMNIFICATION

- 34.1 Contractor shall indemnify, hold harmless and defend County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of Contractor's work under this Contract. County shall inform

Contractor as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure, and shall support Contractor's defense and settlement thereof.

- 34.2 In the event any equipment, software or services product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that County's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, Contractor, at its sole expense, and providing that County's continued use of the System is not materially impeded, shall:

- Procure for County all rights to continued use of the questioned product; or
- Replace the questioned product with a non-questioned item; or
- Modify the questioned product so that it is free of claims.

- 34.3 Contractor shall have no liability if the alleged infringement or unauthorized disclosure is based upon a use of the questioned product, either alone or in combination with other items not supplied by Contractor, in a manner for which the questioned product was not designed nor intended.

35. LICENSES, PERMITS, REGISTRATIONS AND CERTIFICATES

Contractor shall obtain and maintain in effect during the term of this Contract all licenses, permits, registrations, accreditations and certificates, if any, required by all Federal, State, and local laws, ordinances, rules, and regulations, which are applicable to the performance of this Contract, and shall further ensure that all of its officers, employees and agents who perform Services and other work hereunder shall obtain and maintain in effect during the term of this Contract all licenses, permits, registrations, accreditations and certificates which are applicable to their performance of Services and other work hereunder. A copy of each such license, permit, registration, accreditation and certificate required by law shall be provided to County's Project Manager, at the address set forth in Exhibit E (County's Administration) upon request.

36. LIQUIDATED DAMAGES

- 36.1 If, in the judgment of the County's Project Manager, or his designee, Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the County's Project Manager, at his/her option, in addition to, or in lieu of, other remedies provided herein, may deduct pro rata from Contractor's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to Contractor from County will be forwarded to Contractor by County's Project Manager in a written notice describing the reasons for said action.
- 36.2 If County's Project Manager determines that there are deficiencies in the performance of this Contract that County's Project Manager deems are correctable by Contractor over a certain time span, County's Project Manager will provide a written notice to Contractor to correct the deficiency within specified time frames. Should Contractor fail to correct deficiencies within said time frame, County's Project Manager may:
- a. Deduct from Contractor's payment, pro rata, those applicable portions of any amounts due to Contractor; and/or
 - b. Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of Contractor to

correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred Dollars (\$100) per day per infraction and that Contractor shall be liable to County for liquidated damages in said amount. Said amount shall be deducted from County's payment to Contractor; and/or

- c. Upon giving five (5) days' notice to Contractor for failure to correct the deficiencies, County may correct any and all deficiencies, and the total costs incurred by County for completion of the work by an alternate source, including County personnel or another contractor, will be deducted and forfeited from the payment to Contractor from County, as determined by County.

36.3 The action noted in Paragraph 36.2 above shall not be construed as a penalty, but as adjustment of payment to Contractor to recover County cost due to the failure of Contractor to complete or comply with the provisions of this Contract.

36.4 The parties agree to invoke and complete the Dispute Resolution Procedure pursuant Paragraph 25 (Dispute Resolution Procedure) before County assesses liquidated damages under this Paragraph 36. Furthermore, this Paragraph 34 shall not, in any manner, restrict or limit County's right to damages for any breach of this Contract provided by law or as specified in Paragraph 36.2 above or otherwise in this Contract and shall not, in any manner, restrict or limit County's right to terminate/suspend this Contract as agreed to herein.

37. MOST FAVORED PUBLIC ENTITY

If Contractor's prices decline or should Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to County.

38. NONDISCRIMINATION AND EQUAL EMPLOYMENT

- 38.1 Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State antidiscrimination laws and regulations.
- 38.2 Contractor shall certify to, and comply with, the provisions of Exhibit D (Contractor's EEO Certification).
- 38.3 Contractor shall take equal employment action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination/suspension, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 38.4 Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.

- 38.5 Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.
- 38.6 Contractor shall allow County representatives access to Contractor's employment records during regular business hours to verify compliance with the provisions of this Paragraph 38 when so requested by County.
- 38.7 If County finds that any provisions of this Paragraph 38 have been violated, such violation shall constitute a material breach of this Contract upon which County may terminate or suspend this Contract. County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Contract.
- 38.8 The parties agree that in the event Contractor violates any of the anti-discrimination provisions of this Contract, County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Contract.

39. NON-EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Contract shall not restrict County from acquiring similar, equal or like goods and/or services from other entities or sources.

40. NOTICE OF DELAYS

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) Business Day, give notice thereof, including all relevant information with respect thereto, to the other party.

41. NOTICE OF DISPUTES

Contractor shall bring to the attention of County's Project Manager any dispute between County and Contractor regarding the performance of services as stated in this Contract. If County's Project Manager, is not able to resolve the dispute, the Director or designee shall resolve it.

42. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

43. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit I (Safely Surrendered Baby Law) of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

44. NOTICES

- 44.1 Notices required or permitted to be given under the terms of this Contract or by any law now or hereafter in effect may, at the option of the party giving notice, be given by personal delivery or by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States Post Office or substation thereof, or any public mail box.

The notices and envelopes containing same to County shall be addressed to the applicable parties as identified in Exhibit E (County's Administration).

The notices and envelopes containing same to Contractor shall be addressed to the applicable parties as identified in Exhibit F (Contractor's Administration).

Addresses may be changed by either party giving ten (10) day's prior written notice thereof to the other. The Director or designee shall have the authority to issue all notices or demands required or permitted by County under this Contract.

- 44.2 In the event of suspension or termination/suspension of this Contract, notices may also be given upon personal delivery to any person whose actual knowledge of such suspension or termination/suspension would be sufficient notice to Contractor.

45. PROHIBITION AGAINST INDUCEMENT AND PERSUASION

Notwithstanding the above, Contractor and County agree that, during the term of this Contract and for a period of one (1) year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

46. PROPRIETARY CONSIDERATIONS**46.1 COUNTY MATERIALS**

- 46.1.1 County shall be the sole owner of all right, title and interest, including copyright, in and to all information, data, plans, diagrams, designs, reports, records and other documents excluding any Software documentation and Software Updates (hereafter "County Materials"), which are originated or created through Contractor's work pursuant to this Contract. Contractor, for valuable consideration herein provided, shall execute all documents necessary to assign and transfer to, and vest in County all of Contractor's right, title and interest in and to such County Materials, including any copyright, patent and trade secret rights which arise pursuant to Contractor's work under this Contract. Contractor shall ensure that each person providing work for or on behalf of Contractor under the Contract, including Contractor's Project Manager, shall fully execute Exhibit G (Acknowledgment, Confidentiality and Assignment Agreement) prior to commencing any work under the Contract.

- 46.1.2 During the term of this Contract and for five (5) years thereafter, Contractor shall maintain and provide security for all of Contractor's working papers prepared under this Contract. County shall have the right to inspect, copy and use, at any time during and subsequent to the term of this Contract, any and all such working papers and all information contained therein.

46.2 SOFTWARE LICENSE

Contractor hereby acknowledges and agrees that County owns an enterprise perpetual license (hereinafter "License") for the Software and Customizations referenced herein including any and all Software Updates, which it has obtained under prior agreements with Contractor or any of its predecessors, including but not limited to the Software License Agreement with THINQ Learning Solutions, Inc., dated June 16, 2004, and any other purchase orders, contracts and/or encumbrances for such Software and Software Updates. Nothing hereunder shall impair or otherwise diminish County's rights to such License for the Software.

46.3 PROPRIETARY AND CONFIDENTIAL INFORMATION

- 46.3.1 Any and all materials, software and tools which are developed or were originally acquired by Contractor outside the scope of this Contract, which Contractor desires to use hereunder, and which Contractor considers to be proprietary or confidential, must be specifically identified by Contractor to County's Project Manager or designee as proprietary or confidential, and shall be plainly and prominently marked by Contractor as "Propriety" or "Confidential" on each appropriate page of any document containing such material.
- 46.3.2 Notwithstanding any other provision of this Contract, County will not be obligated to Contractor in any way under Paragraph 46.3.1 above for any of Contractor's proprietary and/or confidential items which are not plainly and prominently marked with restrictive legends as required by Paragraph 46.3.1 above or for any disclosure which County is required to make under any state or federal law or order of court.

46.4 SURVIVAL

All the rights and obligations of this Paragraph 46 shall survive the expiration or termination or suspension of this Contract.

47. PUBLIC RECORDS ACT

- 47.1 Any documents submitted by Contractor; all information obtained in connection with County's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Paragraph 49 (Record Retention and Inspection/Audit Settlement) of this Contract; as well as any documents which were required to be submitted in response to a Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements that meet the exceptions set forth in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential" or "proprietary". County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.
- 47.2 In the event County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential" or "proprietary", Contractor agrees to defend and indemnify

County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

48. PUBLICITY

48.1 Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing Contractor's need to identify its services and related clients to sustain itself, County shall not inhibit Contractor from publishing its role under this Contract within the following conditions:

- Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of County without the prior written consent of County's Project Manager or designee. County shall not unreasonably withhold written consent.

48.2 Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Contract with the County of Los Angeles, provided that the requirements of this Paragraph 48 shall apply.

49. RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. Contractor agrees that County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by Contractor and shall be made available to County during the term of this Contract and for a period of five (5) years thereafter unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at County's option, Contractor shall pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, copy, or transcribe such material at such other location.

49.1 In the event that an audit of Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, then Contractor shall file a copy of such audit report with County's Auditor Controller within thirty (30) days of Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. Subject to applicable law, County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

49.2 Failure on the part of Contractor to comply with any of the provisions of this Paragraph 49 shall constitute a material breach of this Contract upon which County may terminate/suspend or suspend this Contract.

49.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination/suspension of this Contract, representatives of County conduct an audit of Contractor

regarding the work performed under this Contract, and if such audit finds that County's dollar liability for any such work is less than payments made by County to Contractor, then the difference shall be either (a) repaid by Contractor to County by cash payment upon demand or (b) at the sole option of County's Auditor-Controller, deducted from any amounts due to Contractor from County, whether under this Contract or otherwise. If such audit finds that County's dollar liability for such work is more than the payments made by County to Contractor, then the difference shall be paid to Contractor by County by cash payment, provided that in no event shall County's maximum obligation for this Contract exceed the funds appropriated by County for the purpose of this Contract.

50. RECYCLED BOND PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at County landfills, Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

51. SUBCONTRACTING

- 51.1 The requirements of this Contract may not be subcontracted by Contractor without the advance approval of County. Any attempt by Contractor to subcontract without the prior consent of County may be deemed a material breach of this Contract.
- 51.2 If Contractor desires to subcontract, Contractor shall provide the following information promptly upon County's request:
- a. A description of the work to be performed by the subcontractor;
 - b. A draft copy of the proposed subcontract; and
 - c. Other pertinent information and/or certifications requested by County.
- 51.3 Contractor shall indemnify, defend, and hold County harmless with respect to the activities of each and every subcontractor in the same manner and to the same degree as if such subcontractor(s) were Contractor employees.
- 51.4 Contractor shall remain fully responsible for all performances required of it under this Contract, including those that Contractor has determined to subcontract, notwithstanding County's approval of Contractor's proposed subcontract.
- 51.5 County's consent to subcontract shall not waive County's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Contract. Contractor is responsible to notify its subcontractors of this County right.
- 51.6 County's Project Manager is authorized to act for and on behalf of County with respect to approval of any subcontract and subcontractor employees. After approval of the subcontract by County, Contractor shall forward a fully executed subcontract to County for its files.
- 51.7 Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding County's consent to subcontract.
- 51.8 Contractor shall include all subcontractors as insureds under Contractor's own policies, or shall provide County with each subcontractor's separate evidence of insurance coverage. Contractor shall be responsible for verifying each subcontractor complies with the required insurance provisions set forth in this Contract.

52. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 21 (Contractor's Warranty of Adherence to County's Child Support Compliance Program), shall constitute default under this Contract. Without limiting the rights and remedies available to County under any other provision of this Contract, failure of Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which County may terminate/suspend/suspend this Contract pursuant to Paragraph 55 (Termination for Default) and pursue debarment of Contractor pursuant to County Code Chapter 2.202.

53. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 22 (Contractor's Warranty of Compliance with County's Defaulted Property Tax Reduction Program), shall constitute default under this Contract. Without limiting the rights and remedies available to County under any other provision of this Contract, failure of Contractor to cure such default within ten (10) days of notice shall be grounds upon which County may terminate/suspend/suspend this Contract and/or pursue debarment of Contractor pursuant to County Code Chapter 2.206.

54. TERMINATION FOR CONVENIENCE

- 54.1 This Contract may be terminated/suspended , in whole or in part, from time to time, when such action is deemed by County, in its sole discretion, to be in its best interest. Termination/suspension of work hereunder shall be effected by notice of termination/suspension to Contractor specifying the extent to which performance of work is terminated/suspended and the date upon which such termination/suspension becomes effective. The date upon which such termination/suspension becomes effective shall be no less than ten (10) days after the notice is sent.
- 54.2 After receipt of a notice of termination/suspension and except as otherwise directed by County, Contractor shall:
- Stop work under this Contract on the date and to the extent specified in such notice, and
 - Complete performance of such part of the work as shall not have been terminated/suspended by such notice.
- 54.3 Subject to the provisions of Paragraphs 54.1 and 54.2 above, County and Contractor shall negotiate an equitable amount to be paid to Contractor by reason of the total or partial termination/suspension of work pursuant to this Paragraph 54. Said amount may include a reasonable allowance for profit on work done but shall not include an allowance on work terminated/suspended . County shall pay the agreed amount; subject to other limitations and provided that such amount shall not exceed the total funding obligated under this Contract as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated/suspended .
- 55. TERMINATION FOR DEFAULT**
- 55.1 County may, by written notice to Contractor, terminate/suspend the whole or any part of this Contract, if, in the judgment of County:

- a. Contractor has materially breached this Contract; or
- b. Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service or other work required either under this Contract; or
- c. Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within five (5) Business Days (or such longer period as County may authorize in writing) after receipt of written notice from County specifying such failure.

55.2 If, after County has given notice of termination/suspension under the provisions of this Paragraph 55, it is determined by County that Contractor was not in default under the provisions of this Paragraph 55, or that the default was excusable under the provisions of Paragraph 54(Termination for Convenience), the rights and obligations of the parties shall be the same as if the notice of termination/suspension had been issued pursuant to Paragraph 54 (Termination for Convenience).

55.3 The rights and remedies of County provided in this Paragraph 55 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

56. TERMINATION FOR IMPROPER CONSIDERATION

56.1 County may, by written notice to Contractor, immediately terminate/suspend the right of Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to Contractor's performance pursuant to this Contract. In the event of such termination/suspension, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

56.2 Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

56.3 Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

57. TERMINATION FOR INSOLVENCY

57.1 County may terminate/suspend this Contract forthwith in the event of the occurrence of any of the following:

- Insolvency of Contractor. Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not Contractor is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding Contractor under the Federal Bankruptcy Code;

- The appointment of a Receiver or Trustee for Contractor; or
- The execution by Contractor of a general assignment for the benefit of creditors.

57.2 The rights and remedies of County provided in this Paragraph 57 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

58. TERMINATION FOR NON-ADHERENCE TO COUNTY LOBBYIST ORDINANCE

Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by Contractor, shall fully comply with County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of Contractor or any County Lobbyist or County Lobbying firm retained by Contractor to fully comply with County's Lobbyist Ordinance shall constitute a material breach of this Contract, upon which County may in its sole discretion, immediately terminate/suspend or suspend this Contract.

59. EFFECT OF TERMINATION

In the event County terminates this Contract in whole or in part as provided herein, then:

1. Contractor shall promptly return to County any and all of County's Confidential Information and the County Materials that relate to that portion of the Contract and work terminated by County; and
2. Contractor shall transfer and deliver to County all completed work and work in progress, in a media reasonably requested by County; and
3. County shall have the possession and access to the source code for Customizations which do not include modifications to the Software or any Software Updates; and
4. Contractor and County shall continue the performance of this Contract to the extent not terminated; and
5. Contractor shall perform destruction of data and/or information as specified in Paragraph 15.4 (Data Destruction), to the extent applicable; and
6. After receipt of the notice of termination/suspension, Contractor shall submit to County, in the form and with the certifications as may be prescribed by County, its termination/suspension claim and invoice. Such claim and invoice shall be submitted promptly, but not later than one (1) month from the effective date of termination/suspension. Upon failure of Contractor to submit its termination/suspension claim and invoice within the time allowed, County may determine, on the basis of information available to County, the amount, if any, due to Contractor in respect to the termination/suspension and such determination shall be final. After such determination is made, County shall pay Contractor the amount so determined; and
7. All material including books, records, documents, or other evidence bearing on the costs and expenses of Contractor under this Contract shall be maintained by Contractor in accordance with Paragraph 49 (Record Retention and Inspection/Audit Settlement).

60. TIME OFF FOR VOTING

Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than ten (10) days before every statewide election, every Contractor and

subcontractor shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

61. VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

62. WAIVER

No waiver by County of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Paragraph 56 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

63. WARRANTIES

63.1 WARRANTY AND THE WARRANTY PERIOD

Contractor represents and warrants that Contractor shall provide all Services under this Contract without Deficiencies or Defects in accordance with the terms and conditions hereunder and applicable Acceptance criteria set forth in the Statement of Work. Contractor warrants that it shall promptly correct any and all Deficiencies or Defects in the tasks, deliverables, services and other work provided hereunder in accordance with this Paragraph 63. The correction of all such Defects or Deficiencies shall be at no cost to County during the applicable Warranty Period.

In the event County reasonably finds that the Services do not meet the System Requirements, Deliverable requirements, Work Order requirements or other Contract specifications or requirements for such Services, County shall inform contractor in writing how the Services are non-conforming. Contractor shall re-perform any non-conforming Services at no additional cost to County during the Warranty Period.

63.2 FURTHER WARRANTIES

Contractor further represents, warrants, covenants and agrees that during the term of this Contract:

- a) Contractor shall comply with the applicable specifications, requirements, standards, and representations (including, but not limited to, Deliverable documentation, performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions and requirements applicable to professional software design meeting industry standards) set forth in this Contract, including the Statement of Work and any applicable Work Order.
- b) Contractor warrants that the Services will be performed using reasonable care and skill and according to its current description (including any completion criteria) contained in this Contract, in a professional and workmanlike manner and consistent with generally accepted industry standards.
- c) All documentation delivered under this Contract shall be in accordance with County standards.

- d) In performance of its Services under the Contract, Contractor shall not intentionally cause any unplanned interruption of the operations of, or accessibility to, any of County's systems through any device, method or means including, without limitation, the use of any "virus," "lockup," "time bomb," or "key lock," "worm," device or program, or disabling code, which has the potential or capability of compromising the security of County's confidential or proprietary information or of causing any unplanned interruption of the operations of, or accessibility of, County's systems by County or users or which could alter, destroy, or inhibit the use of County's systems, or the data contained therein (collectively referred to as a "Disabling Device") which could block access to or prevent the use of County's systems by County or users. Contractor agrees that it has not intentionally placed, nor is it aware of, any Disabling Device intentionally placed by Contractor on County's systems in performance of its Services under this Contract, nor shall contractor knowingly permit any subsequent Services under this Contract to cause placement of any Disabling Device on County's systems.

63.3 WARRANTY PASS-THROUGH

Contractor shall pass through to County to the fullest extent authorized, any applicable warranty or indemnity offered by any manufacturer of any third party software product that forms a part of the Services and which are provided by Contractor under this Contract.

63.4 WARRANTY AGAINST CONTINGENT FEES

- a) Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.
- b) For breach of this warranty, County shall have the right to terminate/suspend this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

63.5 BREACH OF WARRANTY OBLIGATIONS

In the event Contractor fails to timely perform its obligations as set forth in this Paragraph 63, then, in addition to County's other rights and remedies set forth herein, County may, after written notice to Contractor and in the event Contractor, after a reasonable time has still failed to perform such warranty obligations, perform any required correction, replacement or other work and debit Contractor therefor at County's direct actual cost of outside labor and materials and County's burdened rates for labor (including without limitation salary, employee benefits and reimbursement policies). Such debit shall be made against any amounts owed by County to Contractor under this Contract.

64. SURVIVAL

The provisions in the following Paragraphs shall survive the expiration or termination of this Contract for any reason:

- 12 Compliance with Applicable Laws
- 15 Confidentiality and Security

| | |
|-----|--|
| 26 | Employment Eligibility Verification |
| 28 | Fair Labor Standards |
| 30 | Governing Law, Jurisdiction and Venue |
| 32 | Indemnification |
| 33 | Insurance |
| 34 | Intellectual Property Indemnification |
| 49 | Record Retention and Inspection/Audit Settlement |
| 2.3 | Standard of Services |
| 63 | Warranties |
| 46 | Proprietary Considerations |

IN WITNESS WHEREOF, County and Contractor by their duly authorized signatures have caused this Contract to be effective the day, month and year first above written.

CONTRACTOR: SABA SOFTWARE, INC.

By _____
BILL MASTIN
Vice President, Worldwide Professional Services

COUNTY OF LOS ANGELES

By _____
LISA M. GARRETT
Director of Personnel

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By _____
VICTORIA MANSOURIAN
Principal Deputy County Counsel

EXHIBIT A

STATEMENT OF WORK

TABLE OF CONTENTS

| SECTION | TITLE | PAGE |
|-------------------------|---|------|
| 1.0 | SCOPE OF WORK | 1 |
| 2.0 | DEFINITIONS | 2 |
| 3.0 | TASKS AND DELIVERABLES | 4 |
| 4.0 | ON-SITE SUPPORT/TRAINING SERVICES | 10 |
| <u>ATTACHMENTS:</u> | | |
| A.1 | SYSTEM REQUIREMENTS | 11 |
| A.2 | SYSTEM CONFIGURATION | 13 |

STATEMENT OF WORK (SOW)

1.0 SCOPE OF WORK

The Statement of Work ("SOW") set forth in this Exhibit A (Statement of Work), including Attachment A.1 (System Requirements) and Attachment A.2 (System Configuration), consists of the scope, tasks and deliverables Contractor shall provide during the term of the Contract.

Contractor shall perform, complete and deliver all tasks, subtasks and deliverables, however denoted, as set forth in this SOW. Also defined herein are those tasks and subtasks that involve participation of both Contractor and County. Unless otherwise specified as an obligation of County, such as tasks that are incumbent upon County's Internal Services Department (ISD) to perform, Contractor shall perform all tasks and subtasks and provide all deliverables as described herein.

The general scope of Required Work to be performed under the Contract includes, but is not limited to, the following services:

- Upgrading the existing on-premise Learning Net environments to the latest version and release of the Saba Learning Management System ("LMS" or "System").
- Performing a technical architecture review to improve the overall System performance and recommending new System architecture.
- Performing business and technical analyses to configure and take advantage of the latest LMS functionalities.
- Conducting business configuration workshops.
- Replacing all current customizations with out-of-the-box functionalities while meeting County requirements. Contractor will recommend changes to business processes, as applicable, to implement any new functionalities.
- Updating existing system integrations between LMS and other County systems.
- Leading User Acceptance Testing ("UAT").
- Conducting system Go-Live and Cutover activities.
- Providing post-production support.

The upgraded LMS shall, at a minimum, include the following new functionalities out-of-the-box:

- Ability to use content developed for mobile devices, including those using Android and iOS operating systems.
- Integration between LMS and Microsoft Outlook.
- Integration with Saba Meeting and/or Cisco WebEx via the Saba Virtual Learning Connector.
- Single Sign On (SSO) using Security Assertion Markup Language (SAML) 2.0.
- Improved course search capabilities.

Contractor shall perform all tasks and subtasks associated with the LMS Upgrade and shall provide all associated deliverables within the timeframes specified in the Project Plan and Project Schedule approved by County. Upon County's request and approval, Contractor shall also provide Optional Work, including professional services, project management, consulting services, training, system environment setup, code version control, Software setup and any other services that will be agreed upon by County and Contractor.

Contractor's Services will be successfully completed upon delivery of a fully implemented, tested and County-accepted System that meets the requirements and legal mandates of the County as detailed in the Contract, while addressing all functions and requirements described or referenced within this SOW.

The capitalized terms used throughout this Statement of Work shall have the meanings given to such terms in this Statement of Work. All other capitalized terms used in this Statement of Work without definitions shall have the meanings given to such terms in the Base Contract or otherwise in the Contract.

Contractor shall provide all Deliverables to County in electronic file format acceptable to the County. For System Software, including, without limitation, latest version and release of the LMS Software, third party products, operating software and any Software Updates provided by Contractor as part of the applicable Software license and/or maintenance agreement(s), electronically as a fully functional installation.

Unless otherwise specified in the Deliverable, County's Acceptance may be provided by physical signature or email communication.

The following Attachments are attached to this Exhibit A and are deemed a part of the Statement of Work:

- Attachment A.1 – System Requirements
- Attachment A.2 – System Configuration

2.0 DEFINITIONS

- 2.1 Acceptance Test:** Any test of the System conducted by Contractor or by County with Contractor's assistance as part of the LMS Upgrade or any Work Order, as applicable.
- 2.2 Blueprint:** The document describing all Software configuration changes required as a result of the LMS Upgrade.
- 2.3 Customizations:** Modifications to the base "out-of-the-box" Software code provided by Contractor in order to meet County's existing or future System Requirements.
- 2.4 Cutover:** The act of switching users from the old version of the LMS to the upgraded version.

- 2.5 Cutover Plan:** The document detailing the tasks that will be taken to achieve the Cutover.
- 2.6 Development Environment:** An operational installation of Contractor’s Software housed on County’s infrastructure; used by Contractor for initial Software configuration and testing prior to Software installation in the Quality Assurance Environment.
- 2.7 Environment; System Environment:** Any operational installation of Contractor’s Software housed on County’s infrastructure.
- 2.8 Fixed Price Amount:** The not-to-exceed amount specified in Exhibit B (Pricing Schedule) for the provision of the LMS Upgrade Services by Contractor to County under the Contract in accordance with Exhibit A (Statement of Work).
- 2.9 Go-Live:** The result of the Cutover of the System into Production.
- 2.10 Guide (also referred to as “Installation and Upgrade Guide”):** The document that details the deployment steps for the LMS Upgrade. The Guide will include pre- and post-implementation activities.
- 2.11 Installation and Upgrade Guide (also referred to as “Guide”):** The document that details the deployment steps for the LMS Upgrade. The Guide will include pre- and post-implementation activities.
- 2.12 Learning Management Systems (LMS) Upgrade (also referred to as “Project”):** The project to upgrade County’s existing Learning Management System to the latest version and release of the Software offered by Contractor.
- 2.13 Performance Testing:** The tests conducted by County and supported by Contractor to ensure Production Environment is optimized and scaled for roll out.
- 2.14 Production (also referred to as “Production Environment”):** An operational installation of Contractor’s Software housed on County’s infrastructure, configured by Contractor according to County’s requirements, and tested and approved by County; used by County employees after Go-Live.
- 2.15 Production Checklist:** The document containing a checklist of County activities required for successful Go-Live.
- 2.16 Production Environment (also referred to as “Production”):** An operational installation of Contractor’s Software housed on County’s infrastructure, configured by Contractor according to County’s requirements, and tested and approved by County; used by County employees after Go-Live.
- 2.17 Project (also referred to as “Learning Management Systems (LMS) Upgrade”):** The project to upgrade County’s existing Learning Management System to the latest version and release offered by the Contractor.

- 2.18 Quality Assurance Environment (QA):** An operational installation of Contractor's Software housed on County's infrastructure and configured by Contractor according to County's requirements; used by County for User Acceptance Testing prior to Go-Live.
- 2.19 Security Assertion Markup Language (SAML):** An XML-based, open-standard data format for exchanging authentication and authorization data between parties, in particular, between an identity provider and a service provider.
- 2.20 Software:** The "out-of-the-box" application software provided by Contractor.
- 2.21 System Integration Testing (SIT):** Testing performed to validate integration deployment to County's third party systems.
- 2.22 Test Plan:** The document containing the list of Acceptance Tests the Contractor and County will conduct to test the accuracy, validity, or performance of the installed and configured Software.

3.0 TASKS AND DELIVERABLES

TASK 1 – CONDUCT PROJECT MANAGEMENT

- 1.1 Contractor shall review the System Requirements for LMS Upgrade, including the functional specifications and system performance requirements, with County. Based upon that review, Contractor shall prepare a Project Plan for the LMS Upgrade and submit it for written approval to County. County may indicate acceptance or rejection of the plan via e-mail or physical signature. Any subsequent significant modifications to the Project Plan, as determined by County, shall require the prior written approval of County.
- 1.2 Contractor shall provide ongoing project management for Contractor's responsibilities for this Project and coordinate with the County Project Manager with regards to any County responsibilities. The purpose of this activity is to provide direction to Contractor with regards to a framework for project planning, communications, reporting, procedural and contractual activity. Contractor's activities under this Task shall include, but not be limited to:
- 1.2.1 Providing effective and proactive coordination and communication with County to ensure Project success;
 - 1.2.2 Maintaining the overall Project Plan with input from County's Project Manager;
 - 1.2.3 Maintaining Project communications through County's Project Manager;
 - 1.2.4 Working with County's Project Manager to address and resolve any deviations from the Project Plan; and
 - 1.2.5 Coordinating and managing the activities of Contractor's Project personnel.

DELIVERABLE 1 – PROJECT PLAN

Contractor shall prepare a Project Plan and submit it for written approval to County's Project Director. The Project Plan shall identify the Project resources, tasks, milestones, Deliverables, timeline and dependencies for all work relating to the Project. Subsequent to County's Project Director's approval, the Project Plan may be modified only if such modification has been approved, in advance, in writing by County's Project Manager.

TASK 2 – DESIGN SYSTEM UPGRADE SPECIFICATIONS

- 2.1 Contractor shall analyze County's System Requirements against the functionality provided out-of-the-box by the latest version and release of the LMS Software licensed by Contractor to County. The objectives of the analysis will be to determine if any Customizations are required to complete the LMS Upgrade and to produce a Guide for the System installation. The Guide will also include instructions for post Go-Live activities performed by both Contractor and County. Contractor's activities under this Task shall include, at a minimum:
 - 2.1.1 Performing detailed analysis of the external certification customization of the existing Learning Net production environment against the latest LMS version and release in order to provide suitable delivered functionality options wherever possible.
 - 2.1.2 Performing detailed analysis of the County's Single Sign-On (SSO) requirements, if SAML is not a viable solution. If a custom SSO solution is required, Contractor shall provide Customizations to fulfill the SSO requirements if requested by County and agreed to by the parties.
 - 2.1.3 Performing a Business Requirements Review to understand County's System Requirements as well as current challenges and issues. Recommendations around best practices in the LMS will be provided to County.
 - 2.1.4 Performing a security review of the current LMS domain and security role structure and providing recommendations around best practices as they relate to the latest version of the Software.
 - 2.1.5 Performing a technical review of current integration points, data imports, extracts, Saba Anywhere, Outlook connector and SSO and providing out-of-the-box solutions for the LMS.
 - 2.1.6 Developing Software installation and configuration Blueprint specific to County requirements.
 - 2.1.7 Developing an upgrade path document specific to County to be delivered as part of the project management cutover documents.

- 2.1.8 Reviewing data cleanup and data transformation requirements and providing solutions and recommendations to meet the business requirements where appropriate.
- 2.1.9 If necessary, developing technical/functional specifications for any recommended LMS Customizations requested and approved by County.
- 2.1.10 If any Customization is identified and approved by County, develop a Work Order for all activities associated with provision of Optional Work to complete such Customization, including specification creation, development, deployment and validation.

DELIVERABLE 2.1 – BLUEPRINT

Upon completion of all activities under Task 2 (Design System Upgrade Specifications), Contractor shall provide to County a Blueprint which shall document any configuration changes required as a result of the LMS Upgrade. The Blueprint shall also contain recommendations around best practices in the use of the LMS and the recommended hardware and software to support the size and complexity of County's user environment. *Completion of this Deliverable is dependent on completion of business requirements review and identification of any Customization requirements.*

DELIVERABLE 2.2 – TECHNICAL DESIGN SPECIFICATIONS FOR INTEGRATIONS

As part of System Upgrade Specifications, Contractor shall document technical design specifications for existing inbound and outbound interfaces. *Completion of this Deliverable is dependent on County documentation for existing integrations, including field level data and transformation logic.*

DELIVERABLE 2.3 – INSTALLATION AND UPGRADE GUIDE

Contractor shall document deployment steps using the standard LMS installer in the Installation and Upgrade Guide (Guide). The Guide will include pre- and post-implementation activities. *Completion of this Deliverable is dependent on the installation of a new LMS environment and the upgrade of the existing database to the latest version and release.*

TASK 3 – INSTALL AND CONFIGURE SYSTEM

- 3.1 Contractor shall be responsible for the installation and configuration of the Development Environment and Production Environment and will assist County in installing and configuring the latest version of the LMS in the Quality Assurance (QA) Environment. Contractor's activities under this Task shall include, but not be limited to:
 - 3.1.1 Performing a fresh installation of the LMS and performing an upgrade of the existing database to the latest version and release using the standard LMS upgrade installer to the Development Environment.

- 3.1.2 Providing working LMS demonstrations using critical use cases where out of the box solutions exist.
- 3.1.3 Demonstrating how to configure the Development Environment based on the Blueprint, working in parallel with County's technical team in making the changes in the Production Environment and supporting County in configuring the QA environment.
- 3.1.4 Providing technical support and expertise to County's technical team around the creation, execution and validation of the integrations to the Human Resources data tables (Person, Job, Org, Location) using out-of-the-box functionality.
- 3.1.5 Supporting County with System Integration Testing (SIT) to validate integration deployment to County's third party systems. Contractor shall support SIT execution and assist in issue resolution and regression testing. Assistance during the SIT process will be on the basis of at least two (2) days per week for a three-week duration during System Integration Testing phase.

TASK 4 – CONDUCT USER ACCEPTANCE TESTING

- 4.1 Contractor shall develop, with County's assistance, a Test Plan to validate County's LMS Upgrade requirements across all Environments. Contractor and/or County, as applicable, shall perform each of the Acceptance Tests specified in the Test Plan and contained in this Task 4. County's approval shall be required before any Acceptance Test is deemed complete. All test cycles shall be repeated as necessary to achieve the required results. Contractor shall provide User Acceptance Testing (UAT) under this Task 4 until such time as County approves and accepts the test results. Contractor's activities under this Task shall include, but not be limited to:
 - 4.1.1 Deploying and unit testing, as necessary, any Customizations approved by County as provided by Contractor, as specified in Task 2 (Design System Upgrade Specifications).
 - 4.1.2 Ensuring readiness of QA Environment with full LMS functionality for UAT.
 - 4.1.3 Supporting County with UAT. Contractor shall support UAT with issue resolution and regression testing. Assistance during the UAT process will be on the basis of at least two (2) days per week for a three (3) week duration during UAT.
 - 4.1.4 Support County with Performance Testing to ensure Production Environment is optimized and scaled for roll out. Contractor shall provide technical consulting support to assist County with at least one (1) week Performance Testing phase.

DELIVERABLE 4 – USER ACCEPTANCE TESTING COMPLETED

Contractor shall provide documentation of completed User Acceptance Testing as described in Task 4 (Conduct User Acceptance Testing).

TASK 5 – DEPLOY TO PRODUCTION

5.1 Upon completion of User Acceptance Testing by County, Contractor shall install the same configuration in the Production Environment provided by County. Contractor shall analyze the configured System Environment to ensure that it meets County's specifications. Contractor's activities under this Task shall include, but not be limited to:

5.1.1 Resolving issues identified during UAT testing cycles.

5.1.2 Training County staff in the administration of the upgraded LMS.

5.1.3 Working with County's technical team to perform the end-to-end installation of the LMS, including all migration and upgrade activities.

5.1.4 Working with County's technical team to perform all post installation configurations as identified in the Blueprint.

5.1.5 Developing Production Checklist outlining all Cutover activities.

5.1.6 Performing all required Go-Live and post Go-Live upgrade and configuration activities.

DELIVERABLE 5.1 – CUTOVER PLAN

Contractor shall develop a Cutover Plan which shall all track activities during the Cutover from the old version to the new version of the LMS.

DELIVERABLE 5.2 – PRODUCTION CHECKLIST

Contractor shall develop a Production Checklist of all County activities required for successful Go-Live of the System in the Production Environment.

DELIVERABLE 5.3 – FINAL BLUEPRINT

Upon successful Cutover, Contractor shall update and finalize the Blueprint with any additional configurations to be applied to production. Completion of this deliverable is dependent on the post-UAT configuration review.

DELIVERABLE 5.4 – ADMINISTRATION TRAINING

Contractor shall train all County staff designated by County's Project Manager in the administration of the upgraded LMS.

DELIVERABLE 5.5 – CUTOVER TO PRODUCTION

Contractor shall work with County's technical team to perform the end-to-end installation of the LMS, including all migration or upgrade activities and to perform all post installation configurations as identified in the Blueprint.

TASK 6 – PROVIDE POST GO-LIVE SUPPORT

- 6.1 Contractor shall provide post Go-Live support and collate all documentation. Final documentation will be assembled in order to transition complete project documentation. Contractor's activities under this Task shall, at a minimum, include:
 - 6.1.1 Providing a business consultant for eight (8) hours per week for a period of two (2) weeks of post Go-Live support.
 - 6.1.2 Providing a technical consultant for four (4) hours per week for a period of two (2) weeks of post Go-Live support.

DELIVERABLE 6 – POST GO-LIVE SUPPORT

Contractor shall provide post Go-Live support as described in Task 6 (Provide Post Go-Live Support).

DELIVERABLE 6.2 – FINAL DOCUMENTATION

Contractor shall assemble and provide to County all Deliverable documentation for the LMS Upgrade, including any Customizations provided prior to Go-Live.

TASK 7 – ACHIEVE FINAL ACCEPTANCE

- 7.1 Following live Production use of the System following the LMS Upgrade, or any other System Services under a Work Order, Contractor shall support the System in production use with no Deficiencies, as determined in the sole judgment of County's Project Manager, for thirty (30) consecutive days after the expiration of the post Go-Live support. Upon occurrence of a Deficiency, Contractor shall correct each such Deficiency and restart the thirty (30) consecutive day cycle.

DELIVERABLE 7 – FINAL ACCEPTANCE

The System shall achieve Final Acceptance upon completion of a complete Deficiency-free thirty (30) consecutive day cycle.

TASK 8 – PROVIDE OPTIONAL WORK

- 8.1 County's Project Manager may direct Contractor to provide Services in the form of Optional Work using Pool Dollars relating to the LMS, including any LMS Customizations recommended by Contractor and approved by County, as specified in Task 2 (Design System Upgrade Specifications).

Upon request by County during the term of the Contract for Optional Work for Services not already included in Contractor's Fixed Price Amount for the Required Work, Contractor shall submit to County for approval a proposed Work Order for such Optional Work, including a not-to exceed Maximum Fixed Price, which shall also include any and travel-related expenses, calculated using the Fixed Hourly Rate, if applicable. County and Contractor shall agree on the Work Order for the tasks and deliverables to be performed, the schedule of completion and the Maximum Fixed Priced, if applicable, for such Optional Work.

DELIVERABLE 8 – OPTIONAL WORK

Upon County request and approval, Contractor shall provide Optional Work upon execution of a Change Notice for an agreed upon Work Order for such Optional Work.

4.0 ON-SITE SUPPORT/TRAINING SERVICES

- 4.1 Contractor shall provide on-site support services mutually agreed to by Contractor and County, such as testing or go-live review, as part of the services being provided by Contractor and included in the Fixed Price Amount set forth in Exhibit B (Pricing Schedule). Mutually agreed to on-site support services will be provided for at least fifteen (15) Business Days, between the hours of 8:00 a.m. and 5:00 p.m.
- 4.2 Contractor shall also provide on-site training services mutually agreed to by Contractor and County, such as on-site LMS administration training for County staff, with at least three (3) of the fifteen (15) Business Days of on-site services being provided by Contractor and included in the Fixed Price Amount (see Section 4.1 above). Mutually agreed to on-site training services will be provided between the hours of 8:00 a.m. and 5:00 p.m. on mutually agreed to Business Days. In-class training sessions shall be scheduled for a maximum of fifteen (15) participants per session.
- 4.3 No travel or living expenses will be reimbursed by County for the on-site support/training services provided by Contractor.

ATTACHMENT A.1

SYSTEM REQUIREMENTS

Contractor's performance of the tasks and subtasks outlined in the Statement of Work is expected to resolve existing System issues experienced within the Learning Net production environment. If during the User Acceptance Testing (UAT), it is found that one or more of the issues persist or that new functionalities require additional configurations to support the business process after the installation, Contractor shall conduct an analysis and submit a workable solution to County for evaluation and approval.

The System Requirements in this Attachment A.1 set forth the current System issues expected by County to be resolved by the LMS Upgrade, as follows:

| No. | CURRENT SYSTEM ISSUE | EXPECTED RESOLUTION / SYSTEM REQUIREMENT |
|------------|---|---|
| 1. | System is unable to process certification expirations. | Certifications will be expected to expire on the designated date and according to the certification expiration rules applied. |
| 2. | Current versions of desktop browser software (e.g. Internet Explorer 10 and above, Firefox, Chrome, Safari) are incompatible with Saba Learning 5.4. | System will be compatible with latest versions of major browsers (Internet Explorer, Mozilla FireFox, Google Chrome, and Apple Safari). |
| 3. | Intermittent false completions for web based trainings (e.g. immediately after launching training) | Learners receive credit only after successful completion of the course. |
| 4. | Role assignments (e.g. Local Learning Register, Content Administrator) no longer or partially function for some Department users | Functionality prescribed to a role is made available to an administrator when the role is applied to their account. |
| 5. | The audience types load stopped functioning | Reinstate the audience type load or comparable functionality. |
| 6. | Audience Types based on County organizational codes are not structured in the proper hierarchy (e.g. hierarchical structure does not mirror County current organizational structure). | Provide the means to maintain the organizational audience types. |
| 7. | Batch employee load features unable to remove orphaned audience types from a learner's profile. | Provide the means to identify and remove orphaned audience types from a learner's profile and maintain this information going forward. |

| No. | CURRENT SYSTEM ISSUE | EXPECTED RESOLUTION / SYSTEM REQUIREMENT |
|------------|--|---|
| 8. | Several of the reports no longer function. | Reporting features available in the new installation of the LMS will resolve the issues experienced with the reports. |
| 9. | Survey features no longer function | Survey functionality to be restored with the new installation of the LMS. |
| 10. | Intermittent issues with executing Prescriptive Rules (e.g. timing out to error) | Prescriptive Rule execution features available in the new installation of the LMS will resolve the issues. |
| 11. | A new offering is created for each imported transcript during batch import process | The batch import of external transcripts in the new installation of the LMS will not result in generating a new offering for each transcript. |

At a minimum, the following new functionalities are expected to be gained by the LMS Upgrade:

| No. | NEW FUNCTIONALITIES |
|------------|---|
| 1. | Ability to use content developed for mobile devices, including those using Android and iOS operating systems. |
| 2. | Integration between LMS and Microsoft Outlook. |
| 3. | Integration with Saba Meeting and/or Cisco WebEx via the Saba Virtual Learning Connector. |
| 4. | Licensing tracking with alerts notification to learners and other designated individuals when expiration dates are approaching or achieved. |
| 5. | Single Sign On Integration with the County's main intranet portal using Security Assertion Markup Language (SAML) 2.0. |
| 6. | Support for ETL connections to the LMS Database. |

ATTACHMENT A.2

SYSTEM CONFIGURATION

CURRENT LMS CONFIGURATION

| SOFTWARE VERSION: | | Saba Enterprise 5.4.3 |
|--------------------------|-----------------------------|---|
| | | |
| MODULES: | | Learning |
| | | |
| SERVERS | SERVER TYPE | OS |
| Node 1 | Saba Web Server | Microsoft Windows 2003 Server |
| Node 2 | Saba Content Server | Microsoft Windows 2003 Server SAP Crystal Reports Server 6 |
| Node 3 | Saba Application Server | Microsoft Windows 2003 Server |
| Node 4 | Saba Application Server | Microsoft Windows 2003 Server |
| Node 5 | Saba Application Server | Microsoft Windows 2003 Server |
| Node 6 | Saba Application Server | Microsoft Windows 2003 Server |
| Node 7 | Saba Application Server | Microsoft Windows 2003 Server |
| Node 8 | Saba Application Server | Microsoft Windows 2003 Server |
| Node 9 | Saba Database Server | IBM AIX 5.3 Oracle 10g R2 |
| Node 10 | Saba Notification | Microsoft Windows 2003 Server |
| Node 11 | Saba Report Server (QA/DEV) | Microsoft Windows 2003 Server |

UPGRADED LMS CONFIGURATION

| | | |
|--------------------------|---|--|
| SOFTWARE VERSION: | | Saba Enterprise 7.3.1 or later |
| MODULES: | | Learning |
| SERVERS | SERVER TYPE | OS |
| Node 1 | Saba Web Server | Red Hat Enterprise Linux 7 |
| Node 2 | Saba Web Server | Red Hat Enterprise Linux 7 |
| Node 3 | Saba Content Server | Red Hat Enterprise Linux 7 |
| Node 4 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 5 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 6 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 7 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 8 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 9 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 10 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 11 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 12 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 13 | Saba Application Server | Red Hat Enterprise Linux 7 |
| Node 14 | Saba Database Server | IBM AIX 7.1 Oracle 12c R1 |
| Node 15 | Saba Notification, JET Servers, Analytics with Scheduler, Memcached | Red Hat Enterprise Linux 7 |
| Node 16 | Saba Report Server (QA/DEV) | Microsoft Windows 2012 Server SAP Crystal Reports Server XI |

EXHIBIT B

PRICING SCHEDULE

1. GENERAL

This Exhibit B (Pricing Schedule) sets forth the pricing and payment terms for the Services to be provided by Contractor under the Agreement. The following Schedules are attached to and form a part of this Exhibit B:

Schedule B.1 – Optional Work

2. REQUIRED WORK

Key or Milestone Deliverables of the Required Work will be invoiced by Contractor based on a percentage of the Fixed Price Amount for such Required Work, as detailed in the table below. A deliverable will be completed only following Acceptance by County in accordance with the Acceptance criteria listed in the table below.

| DELIVERABLE | AMOUNT DUE | PERCENTAGE |
|--|---------------------|-------------------|
| Deliverable 1.1 – Project Plan | \$25,702.00 | 10% |
| Deliverable 2.1 – Blueprint | \$25,702.00 | 10% |
| Deliverable 2.2 – Technical Design Specifications for Integrations | \$25,702.00 | 10% |
| Deliverable 2.3 – Installation and Upgrade Guide | \$25,702.00 | 10% |
| Deliverable 4.1 – User Acceptance Testing | \$25,702.00 | 10% |
| Deliverable 5.1 – Cutover Plan Deliverable 5.2 – Production Checklist Deliverable 5.3 – Final Blueprint Deliverable 5.4 – Administration Training | \$51,404.00 | 20% |
| Deliverable 5.5 – Cutover to Production Deliverable 6.1 – Post Go-Live Support Deliverable 6.2 – Final Documentation | \$51,404.00 | 20% |
| Deliverable 7 – Final Acceptance | \$25,702.00 | 10% |
| FIXED PRICE AMOUNT | \$257,020.00 | 100% |

3. OPTIONAL WORK

Any agreed upon Optional Work shall be provided by Contractor in accordance with *Paragraph 2.4 (Optional Work) of the Base Contract and Task 8 (Provide Optional Work) of Exhibit A (Statement of Work)*, following agreement by the parties on a not-to-exceed Maximum Fixed Price and the Work Order for such Optional Work. No travel or living expenses will be reimbursed by County.

Any Professional Services provided by Contractor to County as part of Optional Work under the Agreement shall be calculated at the Fixed Hourly Rate of \$251.50 per hour. The Fixed Hourly Rate shall not increase during the term of the Agreement.

4. POOL DOLLARS

The Contract Sum includes an allocation of \$51,404 in Pool Dollars for acquisition of Optional Work, which is the maximum amount allocated for the term of the Contract, unless modified by a duly authorized Amendment executed in accordance with the terms of the Contract. Pool Dollars may be used for acquiring Optional Work provided by Contractor pursuant to the applicable terms of the Contract as specified in *Section 3 (Optional Work)* above by executing a Change Notice or an Amendment, as applicable, in accordance with the Contract. Following acquisition of Optional Work using Pool Dollars, Schedule B.1 (Optional Work) shall be updated by County to reflect the Optional Work acquired and the remaining Pool Dollars balance.

5. CONTRACT SUM

Contract Sum shall be County's maximum obligation under the Agreement and shall include any and all amounts that may be paid by County to Contractor for the Required Work and any Optional Work provided by Contractor during the term of the Contract. The Contract Sum, unless modified in accordance with the terms of the Contract, including any and all sales tax amounts, if applicable, is Three Hundred and Eight Thousand Four Hundred and Twenty Four Dollars (\$308,424) and includes the following components:

| CONTRACT SUM COMPONENTS | TOTAL |
|------------------------------|----------------------|
| Fixed Price Amount | \$ 257,020.00 |
| Pool Dollars (Contract term) | \$ 51,404 .00 |
| CONTRACT SUM | \$ 308,424.00 |

EXHIBIT C
PROJECT SCHEDULE

NOT ATTACHED – TO BE DETERMINED

EXHIBIT D
CONTRACTOR'S EEO CERTIFICATION

Contractor Name

Address

Internal Revenue Service Employer Identification Number

GENERAL CERTIFICATION

In accordance with Section 4.32.010 of the Code of the County of Los Angeles, the contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

CONTRACTOR'S SPECIFIC CERTIFICATIONS

- | | | | |
|----|---|------------------------------|-----------------------------|
| 1. | The Contractor has a written policy statement prohibiting discrimination in all phases of employment. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. | The Contractor periodically conducts a self analysis or utilization analysis of its work force. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. | The Contractor has a system for determining if its employment practices are discriminatory against protected groups. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. | Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

Authorized Official's Printed Name and Title

Authorized Official's Signature

Date

EXHIBIT E
COUNTY'S ADMINISTRATION

CONTRACT NO: _____

COUNTY PROJECT DIRECTOR:

Name: Murtaza Masood

Title: Department Chief Information Officer

Address: Kenneth Hahn Hall of Administration
500 W. Temple Street, Room 585, Los Angeles, California 90012

Telephone: (213) 974-2449

Facsimile: None

E-Mail Address: MMasood@hr.lacounty.gov

COUNTY'S PROJECT MANAGER:

Name: Jim Johnson

Title: Principal Analyst

Address: 3333 Wilshire Blvd., Suite 350
Los Angeles, CA 90010

Telephone: (213) 738-3144

Facsimile: None

E-Mail Address: JJohnson@hr.lacounty.gov

COUNTY'S CONTRACT PROJECT MONITORS:

Name: Latricia Walker

Title: Principal Information Systems Analyst

Address: 3333 Wilshire Blvd., Suite 350
Los Angeles, CA 90010

Telephone: (626) 293-1128

Facsimile: None

E-Mail Address: LWalker@hr.lacounty.gov

EXHIBIT F
CONTRACTOR'S ADMINISTRATION

CONTRACTOR'S NAME: SABA SOFTWARE, INC.
AGREEMENT NO: _____

CONTRACTOR'S PROJECT MANAGER:

Name: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

CONTRACTOR'S AUTHORIZED OFFICIAL(S):

Name: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

Name: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

Notices to Contractor shall be sent to the following:

Name: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

EXHIBIT G
**ACKNOWLEDGEMENT, CONFIDENTIALITY AND
ASSIGNMENT AGREEMENT**

CONTRACTOR NAME: Saba Software, Inc. CONTRACT NO. _____

1. GENERAL INFORMATION

The organization identified above (“Contractor”) is under contract (“Contract”) to provide Services (as such term is defined in the Contract) to the County of Los Angeles (“County”). County requires each employee, agent, consultant, outsourced vendor and independent contractor of this Contractor performing Services under such Contract to understand his/her obligations with respect to the personal, proprietary and other confidential material, data or information, with which he/she will be in contact. Therefore, Contractor, by executing this Confidentiality and Assignment Agreement (also “Agreement”), represents that it shall ensure each such staff member’s compliance with the obligations regarding such data and information, as set forth in the Base Contract, including this Exhibit G.

2. CONTRACTOR ACKNOWLEDGMENT

Contractor understands and agrees that all of Contractor’s, or any subcontractor’s, staff that will provide Services pursuant to the above-referenced Contract are Contractor’s, or any subcontractor’s, sole responsibility. Contractor understands and agrees that its, or any subcontractor’s, staff must rely exclusively upon Contractor, or any subcontractor, for payment of salary and any and all other benefits payable by virtue of such staff’s performance of Services under this Contract.

Contractor understands and agrees that its, or any subcontractor’s, employees are not employees of County for any purpose whatsoever and that such staff do not have and will not acquire any rights or benefits of any kind from County by virtue of performance of Services under the above-referenced Contract. Contractor understands and agrees that its, or any subcontractor’s, staff do not have and will not acquire any rights or benefits from County pursuant to any agreement between any person or entity and County.

3. CONFIDENTIALITY

Contractor, any subcontractor, and their staff, by virtue of performing Services under the above-referenced Contract, may come in contact with (i) County’s Confidential Information (as such term is defined in the Base Contract to the Contract), (ii) data and information, which County has an obligation to keep confidential by applicable law or otherwise, and (iii) proprietary information belonging to other organizations doing business with County (collectively for the purpose of this Exhibit G “Confidential Information”). By signing this Agreement, Contractor agrees that, by virtue of involvement in the Services under the Contract, it, any subcontractor, and their staff shall protect the confidentiality of all such Confidential Information pursuant to the terms of Paragraph 15 (Confidentiality and Security) of the Base Contract under the Contract and as specified below.

Contractor agrees, on behalf of itself, its subcontractors and all staff, (i) to protect from loss and hold in confidence any and all Confidential Information; (ii) not to directly or indirectly reveal, report, publish, transfer, reproduce to, or for the benefit of, any unauthorized person or otherwise disclose any of County’s Confidential Information obtained while performing

Work under the above-referenced Contract; and (iii) to utilize the Confidential Information solely for the limited purpose of providing Services pursuant to the Contract. Contractor's, or any subcontractor's, staff shall forward all requests for disclosure or copying of any such information in their possession or care to County's Project Manager identified under the Contract.

Contractor agrees to report to County's Project Manager under the Contract any and all violations of this Agreement, including unauthorized disclosures or copying of Confidential Information, whether accidental or intentional, and whether by Contractor's, or any subcontractor's, staff and/or by any other person, of which such staff become aware. Contractor agrees and shall ensure that its, or any subcontractor's, staff return possession of all County's Confidential Information to County's Project Manager under the Contract upon completion of the above-referenced Contract or termination of employment with Contractor, or any subcontractor, whichever occurs first.

4. ASSIGNMENT OF PROPRIETARY RIGHTS

All County Materials provided by Contractor and related documentation (as defined in Paragraph 46 (Proprietary Conditions) of the Base Contract to the Contract) shall belong exclusively to County whether or not fixed in a tangible medium of expression. Without limiting the foregoing, to the maximum extent permitted under applicable law, all County Materials shall be deemed to be "works made for hire" under the United States Copyright Act, and County shall be deemed to be the author thereof.

If and to the extent any County Materials are determined not to constitute "works made for hire", or if any rights in the County Materials do not accrue to County as a work made for hire, Contractor agrees to ensure that all right, title and interest in such County Materials, including but not limited to all copyrights, patents, trade secret rights and other proprietary rights in or relating to the County Materials, are irrevocably assigned and transferred to County to the maximum extent permitted by law. Without limiting the foregoing, Contractor agrees to ensure that (i) all economic rights to the County Materials, including the exclusive and unrestricted right to reproduce, manufacture, use, adapt, modify, publish, distribute, sublicense, publicly perform and communicate, translate, lease, import, export, transfer, convey and otherwise exploit the County Materials, are assigned and transferred to County; (ii) County is entitled to any and all modifications, uses, publications and other exploitation of the County Materials without consequences; and (iii) County obtains United States or any foreign letters patent, copyright registrations and other proprietary rights covering inventions and original works of authorship in the County Materials.

Furthermore, Contractor agrees to execute all necessary documents and to perform all other acts in order to assign all of Contractor's right, title and interest in the County Materials in accordance with the Base Contract to the Contract.

SIGNATURE: _____ DATE: _____

PRINTED NAME: _____

POSITION: _____

EXHIBIT H
Title 2 ADMINISTRATION
Chapter 2.203.010 through 2.203.090
CONTRACTOR EMPLOYEE JURY SERVICE

2.203.010 Findings.

The board of supervisors makes the following findings. The county of Los Angeles allows its permanent, full-time employees unlimited jury service at their regular pay. Unfortunately, many businesses do not offer or are reducing or even eliminating compensation to employees who serve on juries. This creates a potential financial hardship for employees who do not receive their pay when called to jury service, and those employees often seek to be excused from having to serve. Although changes in the court rules make it more difficult to excuse a potential juror on grounds of financial hardship, potential jurors continue to be excused on this basis, especially from longer trials. This reduces the number of potential jurors and increases the burden on those employers, such as the county of Los Angeles, who pay their permanent, full-time employees while on juror duty. For these reasons, the county of Los Angeles has determined that it is appropriate to require that the businesses with which the county contracts possess reasonable jury service policies. (Ord. 2002-0015 § 1 (part), 2002)

2.203.020 Definitions.

The following definitions shall be applicable to this chapter:

- A. "Contractor" means a person, partnership, corporation or other entity which has a contract with the county or a subcontract with a county contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more such contracts or subcontracts.
- B. "Employee" means any California resident who is a full-time employee of a contractor under the laws of California.
- C. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:
 - 1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or
 - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or
 - 3. A purchase made through a state or federal contract; or
 - 4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or
 - 5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or
 - 6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or
 - 7. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or

8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.
- D. "Full time" means 40 hours or more worked per week, or a lesser number of hours if:
1. The lesser number is a recognized industry standard as determined by the chief administrative officer, or
 2. The contractor has a long-standing practice that defines the lesser number of hours as full time.
- E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.030 Applicability.

This chapter shall apply to contractors who enter into contracts that commence after July 11, 2002. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence after July 11, 2002. Contracts that commence after May 28, 2002, but before July 11, 2002, shall be subject to the provisions of this chapter only if the solicitations for such contracts stated that the chapter would be applicable. (Ord. 2002-0040 § 2, 2002: Ord. 2002-0015 § 1 (part), 2002)

2.203.040 Contractor Jury Service Policy.

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

2.203.050 Other Provisions.

- A. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- B. Compliance Certification. At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

2.203.060 Enforcement and Remedies.

For a contractor's violation of any provision of this chapter, the county department head responsible for administering the contract may do one or more of the following:

1. Recommend to the board of supervisors the termination of the contract; and/or,
2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

2.203.070. Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.
- B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:
 - 1. Has ten or fewer employees during the contract period; and,
 - 2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than \$500,000; and,
 - 3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

“Dominant in its field of operation” means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed \$500,000.

“Affiliate or subsidiary of a business dominant in its field of operation” means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 2002-0015 § 1 (part), 2002)

2.203.090. Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 2002-0015 § 1 (part), 2002)

EXHIBIT I

SAFELY SURRENDERED BABY LAW

Safely Surrendered



No shame. No blame. No names.

In Los Angeles County: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org



In Los Angeles County: 1 877 BABY SAFE 1 877 222 9723
www.babysafela.org

Safely Surrendered Baby Law

What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents or other persons, with lawful custody, which means anyone to whom the parent has given permission to confidentially surrender a baby. As long as the baby is three days (72 hours) of age or younger and has not been abused or neglected, the baby may be surrendered without fear of arrest or prosecution.

How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially, and safely surrender a baby within three days (72 hours) of birth. The baby must be handed to an employee at a hospital or fire station in Los Angeles County. As long as the baby shows no sign of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, staff will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent or other surrendering adult.

What if a parent wants the baby back?

Parents who change their minds can begin the process of reclaiming their baby within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

Can only a parent bring in the baby?

No. While in most cases a parent will bring in the baby, the Law allows other people to bring in the baby if they have lawful custody.

Does the parent or surrendering adult have to call before bringing in the baby?

No. A parent or surrendering adult can bring in a baby anytime, 24 hours a day, 7 days a week, as long as the parent or surrendering adult surrenders the baby to someone who works at the hospital or fire station.

Does the parent or surrendering adult have to tell anything to the people taking the baby?

No. However, hospital or fire station personnel will ask the surrendering party to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the baby. The questionnaire includes a stamped return envelope and can be sent in at a later time.

What happens to the baby?

The baby will be examined and given medical treatment. Upon release from the hospital, social workers immediately place the baby in a safe and loving home and begin the adoption process.

What happens to the parent or surrendering adult?

Once the parent or surrendering adult surrenders the baby to hospital or fire station personnel, they may leave at any time.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned, hurt or killed by their parents. You may have heard tragic stories of babies left in dumpsters or public bathrooms. Their parents may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had no one or nowhere to turn for help, they abandoned their babies. Abandoning a baby is illegal and places the baby in extreme danger. Too often, it results in the baby's death. The Safely Surrendered Baby Law prevents this tragedy from ever happening again in California.

A baby's story

Early in the morning on April 9, 2005, a healthy baby boy was safely surrendered to nurses at Harbor-UCLA Medical Center. The woman who brought the baby to the hospital identified herself as the baby's aunt and stated the baby's mother had asked her to bring the baby to the hospital on her behalf. The aunt was given a bracelet with a number matching the anklet placed on the baby; this would provide some identification in the event the mother changed her mind about surrendering the baby and wished to reclaim the baby in the 14-day period allowed by the Law. The aunt was also provided with a medical questionnaire and said she would have the mother complete and mail back in the stamped return envelope provided. The baby was examined by medical staff and pronounced healthy and full-term. He was placed with a loving family that had been approved to adopt him by the Department of Children and Family Services.



Ley de Entrega de Bebés *Sin Peligro*



Los recién nacidos pueden ser entregados en forma segura al personal de cualquier hospital o cuartel de bomberos del Condado de Los Ángeles

Sin pena. Sin culpa. Sin nombres.

En el Condado de Los Ángeles: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org



Ley de Entrega de Bebés Sin Peligro

¿Qué es la Ley de Entrega de Bebés sin Peligro?

La Ley de Entrega de Bebés sin Peligro de California permite la entrega confidencial de un recién nacido por parte de sus padres u otras personas con custodia legal, es decir cualquier persona a quien los padres le hayan dado permiso. Siempre que el bebé tenga tres días (72 horas) de vida o menos, y no haya sufrido abuso ni negligencia, pueden entregar al recién nacido sin temor de ser arrestados o procesados.

Cada recién nacido se merece la oportunidad de tener una vida saludable. Si alguien que usted conoce está pensando en abandonar a un recién nacido, infórmele que tiene otras opciones. Hasta tres días (72 horas) después del nacimiento, se puede entregar un recién nacido al personal de cualquier hospital o cuartel de bomberos del condado de Los Angeles.

¿Cómo funciona?

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura dentro de los tres días (72 horas) del nacimiento. El bebé debe ser entregado a un empleado de cualquier hospital o cuartel de bomberos del Condado de Los Ángeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazaletes y el padre/madre o el adulto que lo entregue recibirá un brazaletes igual.

¿Qué pasa si el padre/madre desea recuperar a su bebé?

Los padres que cambien de opinión pueden comenzar el proceso de reclamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Ángeles al 1-800-540-4000.

¿Sólo los padres podrán llevar al recién nacido?

No. Si bien en la mayoría de los casos son los padres los que llevan al bebé, la ley permite que otras personas lo hagan si tienen custodia legal.

¿Los padres o el adulto que entrega al bebé deben llamar antes de llevar al bebé?

No. El padre/madre o adulto puede llevar al bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, siempre y cuando entreguen a su bebé a un empleado del hospital o cuartel de bomberos.

¿Es necesario que el padre/madre o adulto diga algo a las personas que reciben al bebé?

No. Sin embargo, el personal del hospital o cuartel de bomberos le pedirá a la persona que entregue al bebé que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para cuidar bien del bebé. El cuestionario incluye un sobre con el sello postal pagado para enviarlo en otro momento.

¿Qué pasará con el bebé?

El bebé será examinado y le brindarán atención médica. Cuando le den el alta del hospital, los trabajadores sociales inmediatamente ubicarán al bebé en un hogar seguro donde estará bien atendido, y se comenzará el proceso de adopción.

¿Qué pasará con el padre/madre o adulto que entregue al bebé?

Una vez que los padres o adulto hayan entregado al bebé al personal del hospital o cuartel de bomberos, pueden irse en cualquier momento.

¿Por qué se está haciendo esto en California?

La finalidad de la Ley de Entrega de Bebés sin Peligro es proteger a los bebés para que no sean abandonados, lastimados o muertos por sus padres. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Los padres de esos bebés probablemente hayan estado pasando por dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus bebés porque tenían miedo y no tenían nadie a quien pedir ayuda. El abandono de un recién nacido es ilegal y pone al bebé en una situación de peligro extremo. Muy a menudo el abandono provoca la muerte del bebé. La Ley de Entrega de Bebés sin Peligro impide que vuelva a suceder esta tragedia en California.

Historia de un bebé

A la mañana temprano del día 9 de abril de 2005, se entregó un recién nacido saludable a las enfermeras del Harbor-UCLA Medical Center. La mujer que llevó el recién nacido al hospital se dio a conocer como la tía del bebé, y dijo que la madre le había pedido que llevara al bebé al hospital en su nombre. Le entregaron a la tía un brazaletes con un número que coincidía con la pulsera del bebé; esto serviría como identificación en caso de que la madre cambiara de opinión con respecto a la entrega del bebé y decidiera recuperarlo dentro del período de 14 días que permite esta ley. También le dieron a la tía un cuestionario médico, y ella dijo que la madre lo llenaría y lo enviaría de vuelta dentro del sobre con franqueo pagado que le habían dado. El personal médico examinó al bebé y se determinó que estaba saludable y a término. El bebé fue ubicado con una buena familia que ya había sido aprobada para adoptarlo por el Departamento de Servicios para Niños y Familias.





COUNTY OF LOS ANGELES DEPARTMENT OF HUMAN RESOURCES

HEADQUARTERS
579 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-2406 FAX (213) 621-0387

BRANCH OFFICE
3333 WILSHIRE BOULEVARD • LOS ANGELES, CALIFORNIA 90010
(213) 738-2211 FAX (213) 637-0820

LISA M. GARRETT
DIRECTOR OF PERSONNEL

October 14, 2015

To: Each Supervisor

From: Lisa M. Garrett
Director of Personnel

Subject: **ADVANCE NOTIFICATION OF INTENT TO ENTER SOLE SOURCE
NEGOTIATIONS WITH SABA SOFTWARE, INC. FOR SOLE SOURCE
LEARNING MANAGEMENT SYSTEM UPGRADE SERVICES**

This is to advise the Board that the Department of Human Resources (DHR) intends to pursue negotiations and return to the Board within the next three months to request Board approval for a Sole Source Agreement with Saba Software, Inc. (SABA) for an Enterprise Learning Management System (LMS) Upgrade Project. Board Policy No. 5.100 requires at least four weeks prior written notice to the Board of a department's intent to commence contract negotiations for new contracts.

BACKGROUND

The LMS is a Countywide system of record for training. It is a web-based platform that distributes online learning, assesses job knowledge and skills, and tracks compliance with mandatory training (e.g., Sexual Harassment Prevention, Health Insurance Portability and Accountability Act, Computer Security Awareness, and Disaster Service Worker). LMS was implemented in October 2006 and last upgraded in November 2009. The County LMS software version has reached end of support and now faces issues that can only be resolved by upgrading to a newer version. These issues include, but not limited to:

- False Positives – inaccurate recording of training completions;
- No Failover – network interruptions or system crashes may require that students completely restart an online course; and
- No Simple Search – course searches require multiple steps over two screens.

JUSTIFICATION

DHR will be negotiating and seeking Board approval for LMS Upgrade Project by SABA to address these system issues. Key benefits of upgrading to the newest version of software are:

- Mobile learning support;
- Expanded reporting tools;
- Ability to integrate with free learning resources (e.g., Khan Academy); and
- Ability to use the latest versions of common Internet browsers (i.e., Internet Explorer, Google Chrome, Mozilla FireFox, and Apple Safari).

Utilizing SABA's expert knowledge of the software, coupled with their previous experience on the current County installation, it is expected to lead to a streamlined, cost-effective upgrade. License costs will not be part of the negotiations; the County purchased an enterprise license and maintenance agreement with Saba Software in October 2006. The negotiations will focus on obtaining the services required to conduct the software implementation and the specification of any new hardware necessary for the upgrade.

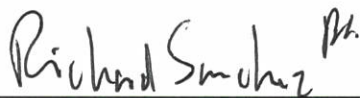
CLOSING

Consistent with the Board policy, DHR will commence negotiations with SABA Software four weeks after this notification is received by the Board. Should you have any questions, please contact me at (213) 974-2406 or your staff may contact Murtaza Masood, Departmental Chief Information Officer, DHR, at (213) 974-2302.

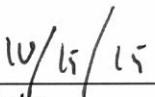
LMG:EP
MM:JJ:LW:gr

c: Chief Executive Office
County Counsel
Chief Information Office

REVIEWED BY:



Richard Sanchez
Chief Information Officer



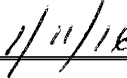
Date

DEPARTMENT OF HUMAN RESOURCES
SOLE SOURCE CHECKLIST
 FOR CONTRACT WITH: Saba Software, Inc.

| Check (v) | JUSTIFICATION FOR SOLE SOURCE CONTRACTS |
|--------------|---|
| | Identify applicable justification and provide documentation for each checked item. |
| | ➤ Only one bona fide source (monopoly) for the service exists; performance and price competition are not available. Monopoly is an <i>"Exclusive control of the supply of any service in a given market. If more than one source in a given market exists, a monopoly does not exist."</i> |
| √ | ➤ Compliance with applicable statutory and/or regulatory provisions. |
| | ➤ Compliance with State and/or federal programmatic requirements. |
| | ➤ Services provided by other public or County-related entities. |
| √ | ➤ Services are needed to address an emergent or related time-sensitive need. |
| | ➤ The service provider(s) is required under the provisions of a grant or regulatory requirement. |
| √ | ➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider. |
| | ➤ Maintenance service agreements exist on equipment which must be serviced by the original equipment manufacturer or an authorized service provider. |
| √ | ➤ It is more cost-efficient to obtain services by exercising an option under an existing contract. |
| √ | ➤ It is in the best economic interest of the County (e.g., significant costs to replace an existing system or infrastructure, administrative cost savings and excessive learning curve for a new service provider, etc.) In such cases, departments must demonstrate due diligence in qualifying the cost savings or cost-avoidance associated with the best economic interest of the County. |



 Chief Executive Office



 Date